

CIVIL GOVERNMENT

of the
UNITED STATES and the
STATE *of* ILLINOIS

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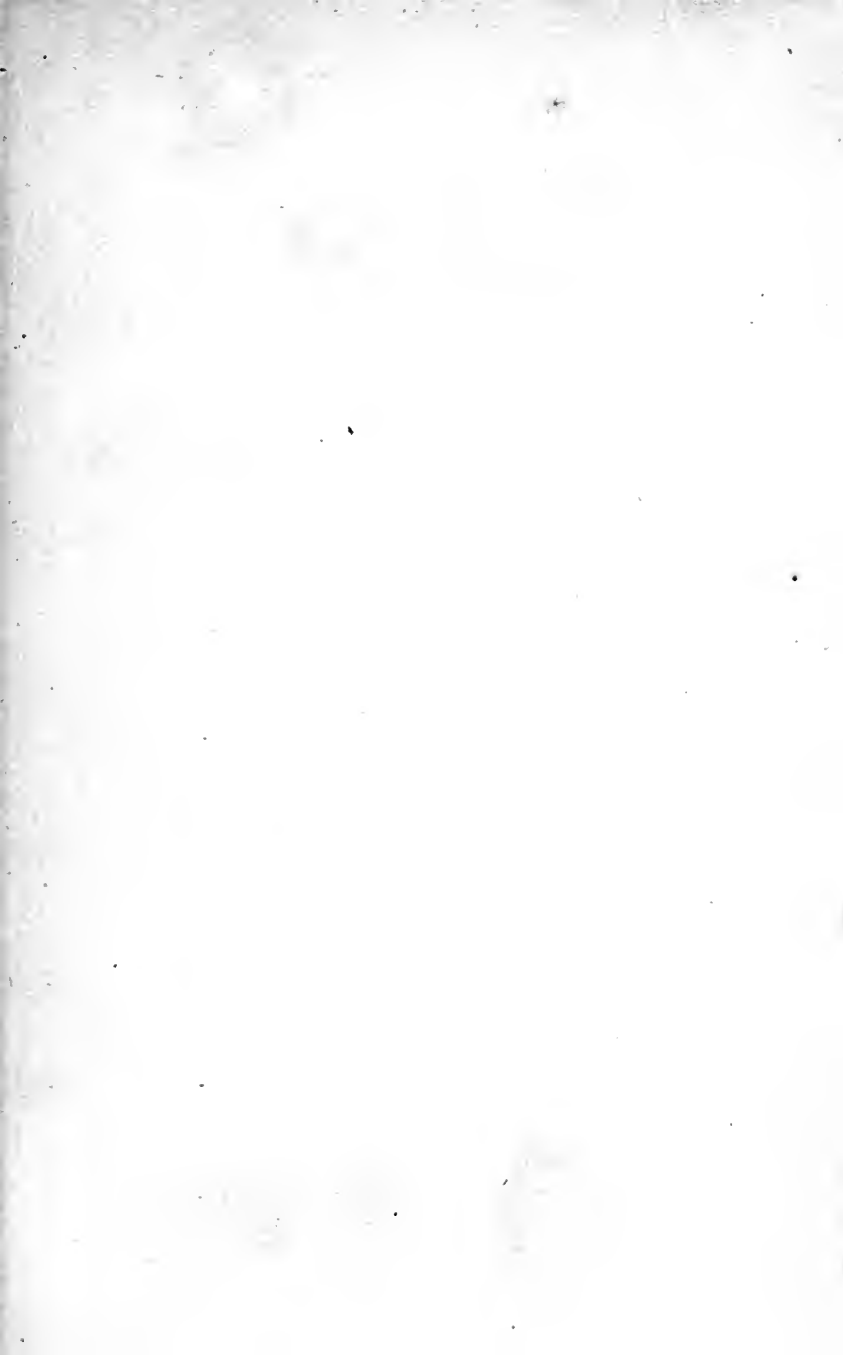
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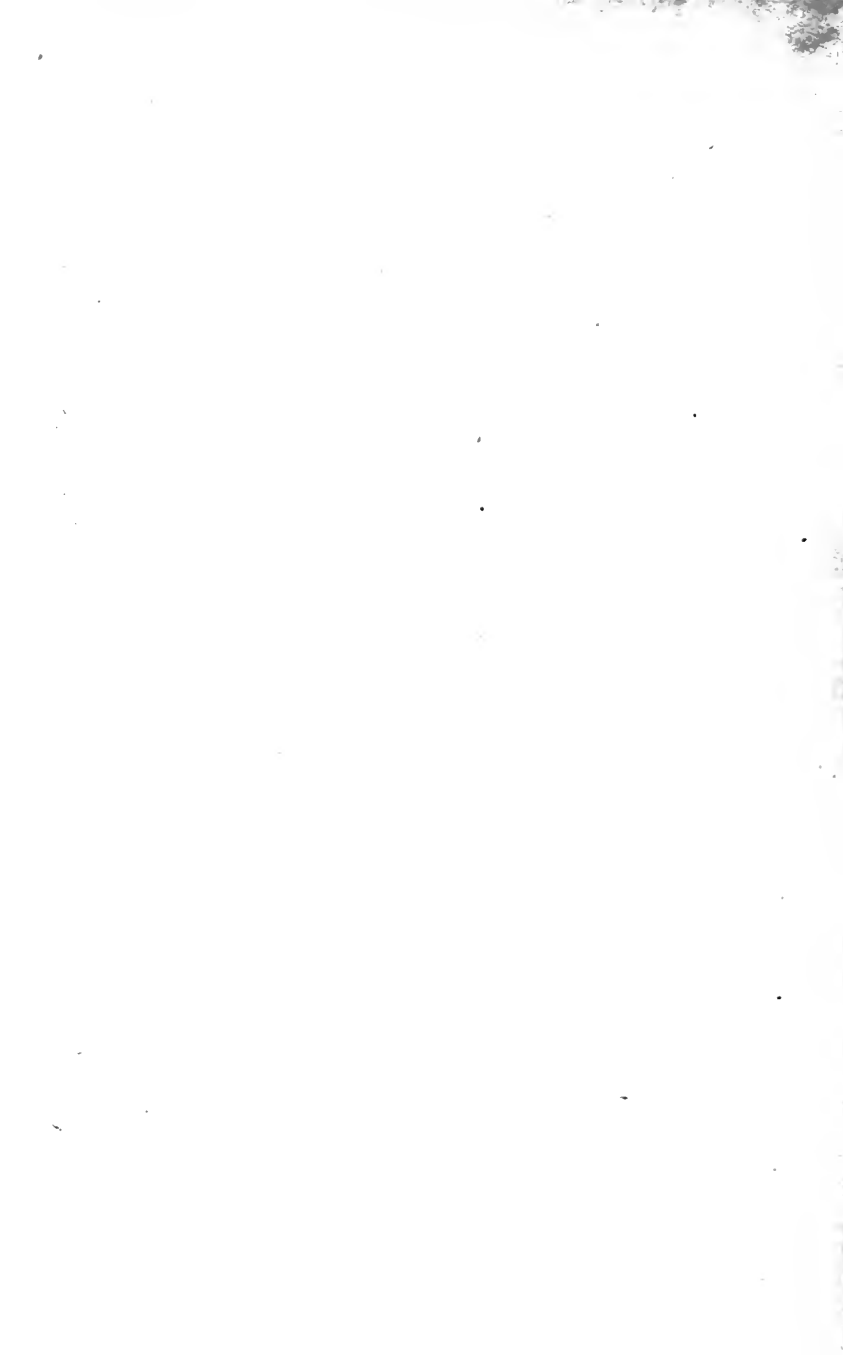


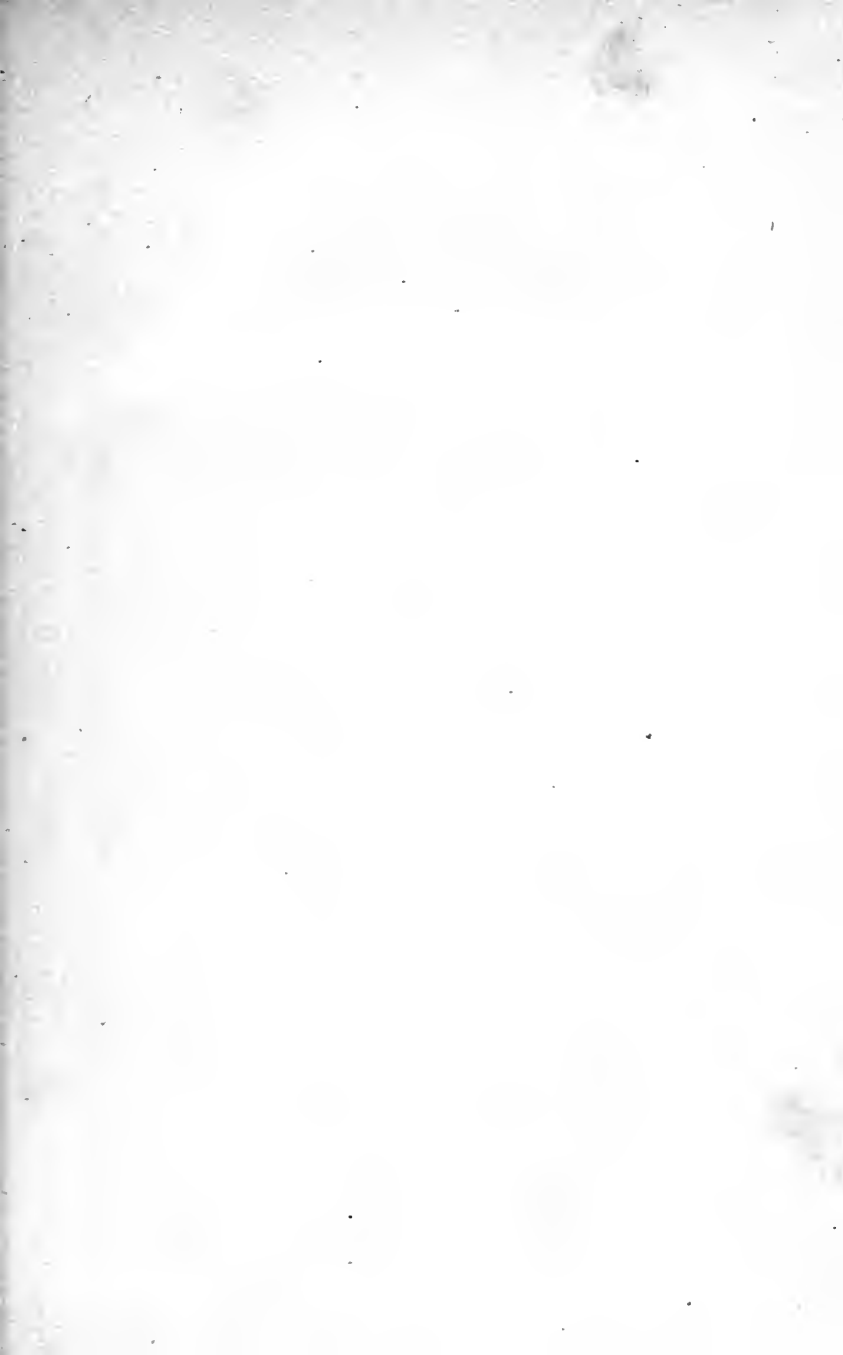
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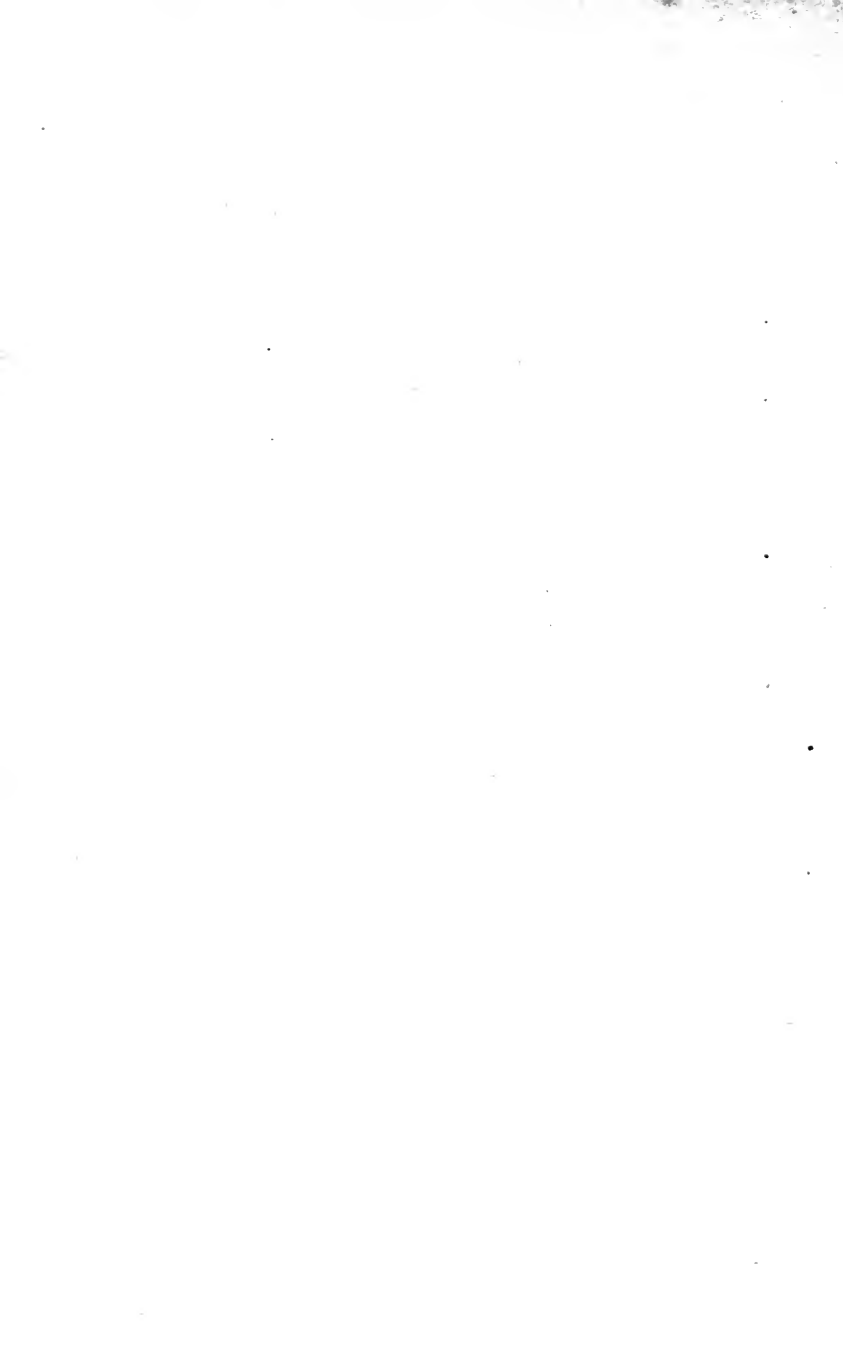
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FEDERAL AND STATE GOVERNMENT

*AN ELEMENTARY TREATISE
ON THE CIVIL GOVERNMENT
OF THE UNITED STATES AND
THE STATE OF ILLINOIS.*

BY
DONALD L. MORRILL,
OF THE CHICAGO BAR.

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1900

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PREFACE.

In offering this volume to the public, the author considers it is his duty to explain briefly the scope of the work and the method employed in treating the subject. Such a statement is particularly necessary in the case of an elementary text-book on civil government, for the increased attention which has been given in recent years to that study has caused the publication of numerous text-books, possessing many meritorious features. Therefore, some reason should be given for writing upon a subject which has been discussed so often by other authors.

The first text-books upon the subject dealt with the Federal government solely, and the study of civics was limited to a consideration of the Constitution and some of the laws of the United States Government. Later, it was found that, however useful and necessary a knowledge of the national government may be, something more is needed to prepare the student for the duties of citizenship, and that it is equally important that he should understand the systems of local and State government under which the citizen lives and which regulate most of his daily transactions.

Recognizing this demand, other books were written, whose contents embraced a consideration of the different

forms of government to which the individual is subjected from infancy to manhood, including family, school, church, social, municipal, State and national government. In the opinion of competent critics, writers of these books have gone to extremes in their efforts to observe the pedagogic precept of commencing instruction upon any subject with those features which are nearest to the pupil. Under this theory, in many text-books the study of civics is commenced with chapters upon domestic and social topics, which have no place in a work devoted to the study of civil government.

This book is designed for use by students who are sufficiently advanced to take up the study of United States history. It should be used in the higher grades of the elementary schools, or the first year of the high school, or both, according to the course of study pursued. It is divided into two parts: the first is devoted to a study of the Federal government and political system; the second to the State government and local institutions of Illinois.

In the first part of the book, it has been the author's aim to furnish aid to students commencing the study of our national political institutions. Therefore, definite and specific information is given as to the essential features of the Federal system, derived from sources not readily accessible to either teacher or pupil. No attempt has been made to analyze the provisions of the Federal Constitution, or to present controversies as to its construction, but there has been an endeavor to show the actual working of our national government, and to describe the same in a manner which can be comprehended by beginners.

The second part of the book is intended as a practical guide to the student upon important matters which are regulated by the local and State government. Other books

have been written with the same object in view, but have failed to some extent in their purpose, because they have not been limited to a consideration of the political institutions of a single State, or of a group of States having similar governmental systems, but have treated these subjects in a general way only, carefully avoiding those details which constitute the distinguishing features of the government of particular States or localities.

It is apparent that, owing to the difference between the constitutional and statutory provisions of the various States of the Union concerning the details of local government, all these different systems cannot be thoroughly treated within the limits of an elementary text-book, except in a general way. Hence, the most successful teachers of civics have been those who have been able to supplement the material contained in the text-book with information concerning the system of municipal and State government under which the pupils live. This book has been prepared for use in the schools of Illinois, and is limited in its discussion of local governmental affairs to that State alone.

It is possible that the order followed in the treatment of the various topics discussed may be the subject of criticism by those who believe that the study of local government should precede that of the State or Nation, and, consequently, that such should be the order of exposition. If the book had been written for the use of students in Massachusetts, Virginia, or any other State whose local institutions were in existence before the formation of the Union, it would be correct, logically and historically, to begin with the study of the local system, and follow with the county, State and national institutions. The case is different, however, when dealing with the government of Illinois, which owes its existence to acts of the Federal Government, and

the development of whose local institutions did not contribute to the formation of the national system.

For these reasons, it has seemed best to divide the subject into two parts, one showing the origin and development of our national government, and the other explaining the formation of our State government, giving due consideration to the local influences which shaped its structure, together with a brief but comprehensive statement of the various governmental agencies which have been created by the State.

While it has been the purpose to make one chapter follow another in logical sequence, yet each topic is treated in a manner sufficiently independent to permit the use of the book as a guide in case it is desired to study the different forms of government in an order different from that followed in the text.

If this volume proves to be of assistance to those who are eager to know the duties of citizenship, and a help to teachers in presenting to their pupils correct information as to the principles upon which our government is based, and the method in which they are applied in all departments, local, State and national, the author will feel that his labors have been amply rewarded.

Chicago, May 1, 1900.

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PART I.

FEDERAL GOVERNMENT.

CHAPTER I.

ORIGIN AND NECESSITY OF GOVERNMENT.

Probably the only man of whom we have any record, who did not feel the necessity of some form of government, was the children's friend, Robinson Crusoe, when he was alone upon his desert island before the advent of his savage visitors bringing with them the future companion of his exile. So it would be in all cases if men lived alone, separate and apart from their fellow-beings, and had no relations with them of a social, civil or commercial character. But such is not the nature of mankind. From the earliest time recorded in history, men have been accustomed to seek the companionship of their fellow-beings, and from the moment that the association of human beings commences, the necessity for some form of government appears.

Government Defined.—Government may be defined as the control exercised by the supreme or sovereign power of the State over individuals for the benefit of all under its charge. This control is exercised by means of laws, and a law is defined by Sir William Blackstone as a rule of conduct commanding what is right and forbidding what is wrong. The necessity for the existence of some supreme power in the State becomes apparent when we consider the results which would follow from allowing each individual to do or

refrain from doing exactly as he pleases. In such a case the weak would have no protection from the strong and the individual would have no assurance of being allowed to enjoy the fruits of his own labor.

Hence for the common good of all, each individual has been obliged to yield to the supreme power of the state some of the rights and prerogatives which he would possess if in a condition of absolute freedom, and has been bound by civic regulations restraining and controlling to a certain extent the acts of his daily life.

Government, then, implies control and restraint of the individual, and it should therefore be noticed that as the exactions and requirements of government increase, to that extent the freedom of the individual is lost. The only absolutely free person must be one who lives solitary and apart from his fellow-beings, who owes them no duties and receives from them no benefits, and who roams at will, hampered only by the necessity of supplying his own wants. Thus the position of an absolutely free man is but little better than that of the friendless exile upon the desert island, the savage inhabitant of unexplored regions, or the wild beast that wanders at large through the wilderness. The overruling providence, which directs the evolution of the human race, never intended that man should live in a state of absolute and unrestricted freedom, and therefore instincts were planted in the human mind leading him to seek associations with his fellow-beings, thus rendering necessary the existence of some form of government, varying in its details according to the condition of the people and their advancement in civilization.

It follows that the best and most desirable form of government is that which interferes least with the freedom of the individual, while at the same time possessing sufficient

strength to protect its citizens in their life, liberty and property, to command and compel obedience and to administer uniform justice to individuals according to their rights and not according to their strength or the audacity of their demands. It will be found that as mankind has advanced in civilization the relations of individuals to each other have become more varied and complex, and the restraints imposed by government more numerous.

The Family.—The first and simplest form of government made necessary by the association of individuals was the family. With the formation of the family some portion of the freedom of the individual was lost and some restraint was placed upon his acts by reason of governmental control. The head and sovereign power of the family was the father, whose wishes all of the members were obliged to respect, and in return for their obedience they received his protection and support. As the family increased in age and numbers and children of the second and third generations appeared, the sovereign power remained vested in the head of the family, who would be the grandfather, or in the case of his death, his eldest son.

The Clan.—In a few generations, by the growth of the original family and by its union with others, the ties of immediate relationship no longer bound the entire community, and the association of individuals became a group of families, called a clan. The government of the family still continued, but an additional and somewhat different power had of necessity been created, which exercised a control over the entire community for the common good of all. To protect itself against the aggressions of other clans and compel its own members to perform their duties toward each other, it was found necessary to have some central authority whom all must obey and who had the power to call upon all of the

members of the clan to protect the individual in the enjoyment of his rights. The person selected for this important function was the head and leader of the clan and was called the chief or by some other term of equivalent meaning. It was his duty to prescribe the rules governing the clan in its intercourse with neighbors, to lead the clan in case of war, to take measures which would tend to keep his followers free from want, and to see that each of his subjects did his duty and observed the rights of his fellow-clansmen.

By this association the individual lost some of his rights, but the benefits which he gained were greater than his losses, for he was no longer obliged to rely entirely upon his own efforts in guarding his flocks, in hunting the wild beasts, in erecting his dwelling, or in overcoming his enemies, but he had the support and assistance of his fellow-clansmen in these undertakings. For many centuries the only form of government known to mankind was that of the clan, which has been described briefly, and which answered all of the needs of a simple people, leading a rude and barbaric life.

The Tribe.—Later, the same impulses and conditions being still at work, different clans coming in contact with each other, led to a union in various ways, sometimes by the intermarriage of children of the chieftains or of the subjects, sometimes by the necessity of making common cause against an enemy, and sometimes by the interchange of the products of such peaceful arts as the people possessed. The ordinary term used to designate such a union of clans is tribe, whose government was in general similar to that of the clan, but necessarily included many additional features as the mass of the people increased in numbers and the tribe grew in power.

The tribe, while still leading a more or less nomadic life,

began gradually to have fixed places of abode during certain seasons of the year. This made it necessary for the chief to prescribe rules concerning the location and manner of constructing the rude huts in which the people lived. Man was not quite as free as he had been before, because he could not fix his dwelling place exactly where he pleased, but was compelled to respect the rights of others. If he coveted the horse or goat of his neighbor, he could not take the animal by virtue of superior strength, because such an infraction of private rights would not be tolerated. The man who was skillful in the chase was compelled to give some of the results of his labor to the artisan who manufactured his bow and arrows. Thus society became more complex, and the work of government became more diverse; as man became more civilized, the reasons for the existence of a government became more numerous, and more and more of the daily acts of the individual came under its control.

Freedom.—From what has been said we conclude that the word freedom, as used in the governmental sense, is a relative term only. It must not be confused with the term license. A free man, as the term is now used, is one who has certain well-defined personal rights, such as the right to life, liberty and the pursuit of happiness, subject to the restriction that he must recognize and respect the same rights existing in favor of his fellow-men. A free man must not be understood to mean a man who can do exactly what he pleases, regardless of the rights of others, but simply as the citizen of a state having a free and independent government. A nation whose government recognizes and protects the rights of all its members, and which is independent of all other nations, is called a free and independent nation.

Governmental Development.—For many generations the only form of government which existed was the tribal

form, but as men became more civilized they began to live in villages, towns and cities, and government began to assume new aspects and covered a wider range. The chief became a king and exercised greater powers. He had in his control the life, liberty and property of his subjects. His will was the only law of the land, and, while he sometimes found it convenient and even necessary to delegate some of his powers to others, still he could always revoke these powers at will and confer them upon others or exercise them himself. Such a form of government is now called an absolute monarchy or a despotism.

It was the legitimate outgrowth of the early tribal form of government, and, while men were rude and uncivilized, probably no better or different form could have been devised. The king ruled by virtue of his superior strength and intelligence, or by reason of his birth or in some cases by divine right as it was claimed, and the people obeyed because they had not yet learned that they constituted the only source of the powers of the government, and that the government had no just powers except such as it exercised with the full consent of the governed.

It would be interesting to trace, step by step, the evolution and growth of the various forms of government that have existed, commencing with the tribal, down through the different kinds of monarchies, oligarchies and republics of ancient and mediæval times to the constitutional monarchies and republics, the most enlightened forms of government of our own times, and to show in detail how, as mankind advanced in civilization, the science of government has developed. For many centuries, governments have been changing and progressing in their forms and duties, from the time when men were simply roving hunters and herders of cattle until they became tillers of the soil and artisans with

fixed places of abode, and until finally they came to engage in all of the different branches of commerce, manufacture and art which pertain to modern civilized life, but the history of these changes and developments furnishes fields for study and investigation which must be pursued independently.

CHAPTER II.

DIFFERENT FORMS OF GOVERNMENT.

It has been shown already how the tribal form of government originated, and that it is the earliest form of government known to man. It is true that the clan preceded the tribe and the family preceded the clan, but family government, as it exists to-day, cannot properly be considered in a work of this kind. Our study will deal only with the government which controls every citizen in common with his fellow-citizens with reference to public matters: in other words, the *civil government* under which we live.

In this chapter, attention will be directed to the various forms of civil government, both ancient and modern, that the difference between our own government and others may be more-clearly understood.

The Tribal Form of Government.—This form of government still exists in some parts of the world, but it is to be found only among uncivilized and uneducated people. The American Indians, except in cases where they have adopted the habits of civilized life, still live under a tribal form of government, but a better illustration is to be found among the savage inhabitants of some parts of Asia and Africa and the islands of the Pacific Ocean. Little need be said concerning this form of government, as it has no written laws and the supreme power is vested in the chief. His authority is shown principally by his leadership in time of war and his selfish exactions in time of peace. No doubt

the government of some tribes has been beneficial to the people composing them, in cases where the chief has been a man of unusual wisdom and actuated by benevolent motives, but such instances have been few and governments of this kind now exist only among people so rude and barbaric that they are incapable of instituting any better system. A general knowledge of the tribal form of government is necessary principally to enable the student to comprehend more clearly the part which it has taken in the development of the science of government, and not because it will directly aid him in performing the duties of citizenship.

It was the first step taken toward the construction of a civil system. It marked an era in the evolution and growth of governmental institutions. It fulfilled the purpose for which it was intended until it came to be replaced by more efficient systems. For this reason the tribal form of government deserves a place in our study, and as we progress attention will be given to those features of our own system in the growth of which tribal government has played a part.

The Absolute Monarchy.—This term designates the form of government in which the absolute power of making and enforcing laws controlling the liberty, property and welfare of the mass of the people is vested in the monarch, who is called by different names. He is called the Emperor in China, the Shah in Persia, the Sultan in Turkey, and the Czar in Russia, but, by whatever name he is known, he is the absolute ruler of his people. The government has no legislature chosen by the people to make laws for their own good, but the only laws consist of imperial decrees or edicts, which must be obeyed strictly or the severest punishment will follow. The laws are not enforced by officers chosen by the people, but by officers appointed directly or indirectly by the ruler, whose aims are to administer the law as

the monarch dictates, regardless of reason or justice toward the individuals whose interests are at stake.

Under such a government a person who is accused of violation of the laws does not have the benefit of a full, fair and open trial, but his case is decided summarily by a magistrate who has no object in view except to carry out the personal wishes of his ruler, or in many cases the offender is given no trial, but is hurried away to imprisonment, banishment or death, without even knowing of what he is accused.

Such a form of government, no matter what may be the personal merits of the ruler, can exist only in countries where the people are kept in subjection by ignorance and superstition, and are made to believe that their ruler is rightfully entitled to everything which he sees fit to demand. With the spread of education and intelligence among the people, such a form of government is bound to lose its powers and be overthrown, to be replaced by some other system recognizing the rights of man and the equality of the individual before the law.

The Oligarchy.— It sometimes happened in ancient times that the government of a people, instead of being committed to a single hereditary chief, was given to a number of persons of equal power, constituting a governmental council having supreme control over the lives and property of the people. Such a form of government is called an oligarchy—that is to say, government by a few, according to the etymological meaning of the word.

Such governments were generally of comparatively brief duration, because jealousies arose and ambitions were developed among the persons composing the oligarchy and the strife thus engendered usually led to civil war and the

overthrow of the government, resulting in the triumph of the strongest and a despotic form of government.

Any government in which the civil power is vested in a limited number of persons, as in a republic where the right of suffrage is narrowly restricted, may properly be called an oligarchy, although the term, as originally used, is applied to such a form of government as at one time existed in Rome, in some of the states of Greece, and in Venice.

The Ancient Republic. — The impression prevails with many that the republican form of government is of purely modern origin. But many centuries before this continent was discovered, the people of Ancient Rome were accustomed to meet in their *forum*, or public meeting place, and there enact laws and perform all of the governmental functions. These meetings were called *comitia*. At a different period, the Greeks carried on their government in similar public meetings, called *ecclesia*, which were held out of doors in the *agora*, or market place, and at a later period many of the Anglo-Saxon tribes decided questions of peace and war, levied taxes and punished criminals at public meetings in which citizens took part.

All of these governments were republics, because in them the source of power was recognized as existing in the body of the people. They were essentially different, however, from our own republic, because the rights of citizenship and property were restricted to particular classes of the population, and the equality of all individuals before the law was not recognized.

The principles which lie at the foundation of our own republic were unknown in Ancient Greece and Rome; these republics were, in fact, but little better than the form of government which has been described as an oligarchy.

The Constitutional or Limited Monarchy. — The origin, development and growth of the constitutional or limited monarchy, as it exists in the enlightened European nations of to-day, such as England, Holland, Norway and Sweden, has much in common with our own governmental history. Many political institutions which we highly prize, as the town meeting, and some features of representative government to be described hereafter, had their origin in the customs of the Teutonic tribes which formerly inhabited the shores of the North and Baltic seas, and the valley of the Elbe, and many of these institutions exist to-day in the monarchical governments just mentioned.

To attempt to enumerate and discuss in this connection all of these points of resemblance between the constitutional monarchy of England and the government of our own republic would interfere with the orderly arrangement of our work, and properly belongs to another branch of study ; but as our work progresses it will appear that in many respects Englishmen and Germans enjoy fully as great political freedom as do the citizens of the United States of America, and that many of our most highly prized political institutions did not originate with us, but were brought across the seas by our ancestors to this land, where, by the general education of the people, they speedily received a wider application and more perfect development than conditions would permit in other countries.

A limited or constitutional monarchy may be defined in general as a government whose chief ruler, whether he be called king or emperor, does not enjoy absolute power, because his rights and privileges are limited by restrictions placed upon them for the benefit of the people. These restrictions exist in the form of laws which cannot be abrogated by the ruler without a revolution ; they are so bene-

ficial and necessary to the welfare of all classes of society that their modification or annulment would never meet the approval of the people. The rights so secured to the people are constitutional—that is to say, they are inherent and cannot be taken away without the consent of the people. The constitutional monarchy naturally takes the place of the absolute form of government in those countries where the people have become so enlightened that they insist upon the right to make the laws under which they live.

The constitutional monarchy is a link in governmental development between the absolute monarchy and the modern republic. It has many features in common with the absolute monarchy. For instance, the sovereign holds his office for life, and upon his death is succeeded by his eldest son or daughter, or, in case he has none, by his next of kin in the order of succession. This right to rulership is called hereditary, because it exists by reason of the birth of the person who enjoys it, and descends from one generation to another. A change, or attempted change, in the order of succession has generally produced a revolution and has caused many of the bloodiest wars in history.

The constitutional monarchy also has many features in common with our own republic—as, for instance, the power of taxation is exercised only by the representatives of the people and not according to the whim or caprice of the ruler, and the laws are enacted by chosen representatives of the people.

The Modern Republic.—The last form of government to be noticed is the republican. It is the youngest in point of time, and it is the product of the highest intellectual development. In speaking of and defining the republican form of government, it must be understood that reference is had to our own republic alone, because the ancient republics

were but little better than oligarchies, and other modern republics, such as France and the countries of South and Central America, have institutions essentially different from those of our own country. In fact, the only people who enjoy governmental rights and privileges very closely resembling our own are the Swiss.

A republic may be defined as a nation in which the sovereign power resides in the whole body of the people and is exercised by representatives chosen by them. The people are the source of all power, and no class is recognized as enjoying any exclusive privilege, but all have equal rights before the law. As characterized by President Lincoln, it is a government "of the people, for the people and by the people."

The head of the government, called the President, does not hold his position by reason of his birth, as in monarchies, but because he has been chosen by the whole body of the people. The laws which protect the people in their rights are made by men who have been selected by the people to do this work for them. It would be impossible for the people in even a single city to meet together to make laws for its government, as the meeting would be too large for purposes of deliberation: therefore the people choose representatives for the different sections of the country, who, in the aggregate, exercise the power of the people to make the laws. In a republic the laws are applied to the transactions of daily life by courts and judges created and appointed in the manner which the people decide to be for the best interests of all, and not by judges in whose appointment the people have had no voice, as is the case in most monarchical governments.

The features which distinguish the republican form of government from all others are that all governmental pow-

ers emanate from the people, all taxes are levied, courts maintained, laws made, and every public institution put in operation by the representatives of the people, for the good of all the people and with their consent. A government has no just powers except such as it exercises with the consent of the governed. The difference between such a government and an absolute monarchy or despotic form of government is so radical and apparent, that with a little reflection you can enumerate many of the points of difference without further aid.

Popular Government.— In concluding this chapter we are naturally led to consider the meaning of the term *popular government*, which is often used in describing the government of our own country, as well as that of other civilized nations. This is a general term, meaning government by the people, and may be applied properly to any government in which the people take part, either directly or through their representatives.

The government of the United States and each of the States of the Union is a popular government, and the same is true to a greater or less extent of all of the modern republics and of a limited monarchical form of government, like that of England. The extent to which the people may be allowed to participate in the functions of government must depend upon their education, intelligence and aptitude for political affairs. Consequently popular governments flourish in those countries where there is general diffusion of knowledge, and the inhabitants, by their education, experience and training, are able to consider governmental questions in an intelligent manner.

Great advances are being made continually in the development of popular government, and in all of the European countries, except the absolute monarchies, greater

political powers have gradually been given to the people. But probably the theory of a popular government in the widest and fullest meaning of the term will never be fully realized except in the management of local affairs in comparatively small communities.

CHAPTER III.

DISTINCTIVE FEATURES OF OUR GOVERNMENT.

Let us now consider some of those features of our own government which distinguish it from all others, the underlying principles which are embodied in different ways in every branch of the civil government, all of which tend to make the government of the United States the most perfect example which has yet been produced of an enlightened form of popular government. The fact has already been noted that in the theory of our government the source of all power lies in the people who are governed, that the government derives all of its powers from their consent, and that all of the people, directly or indirectly, participate in the work of governing.

This principle cannot be dwelt upon too much, because, unless it is fully understood and appreciated, we cannot comprehend our political institutions, and without a just comprehension of these institutions it is impossible to be a good citizen. It will at times be difficult to see how the plain, ordinary citizen, whose time is spent in attending to his business and providing for the wants of his family, takes part in the important functions of government, such as levying taxes, making laws and managing public institutions; but such is the fact.

It is apparent that in a small community, all properly qualified persons can and should have a direct participation in public matters, and the history of nations shows in many

cases that in the early days the people actually ruled, and all had a voice in the government. The difficulty has been that as nations grew in population and importance, it was no longer possible to carry on the work of government by a mass-meeting of the people, and consequently the people gradually lost their individual rights, until finally an absolute form of government was established. It has remained for the people of this great republic to evolve a scheme of government whereby the rights of the citizens have been preserved, and at the same time the nation has grown wonderfully in power and importance.

Representative Government.—To our Anglo-Saxon ancestors we owe the discovery and application of a system which has been an effective instrumentality for enabling the people of this vast country to retain their individual rights and to take part effectively in administering the government. We ordinarily describe this system as government by representation, or representative government. By this device the community which has become large and populous is divided into districts, called by different names, each of which chooses by popular vote one or more persons to represent it in the government and to speak for the district in all governmental matters.

Thus the several States composing the United States are represented in the national government by their senators and representatives in Congress, and in each of the States the law-making part of the government is conducted at the State capital by representatives chosen by the people residing in the different sections of the State, and in the cities, towns, villages and school districts the same principle is applied. All of these arrangements will be shown in detail when we come to consider the different branches of the government under which we live, but for the present it is

enough to remember that the people themselves carry on the government by means of representative assemblies.

The Congress of the United States, the Legislatures of the various States, the City Councils of the different cities, all are representative assemblies, because they are composed of delegates elected by the people.

History of Government by Representation.—The principle of government by representation came to us from England where it had been in use, more or less extensively, since the earliest days of English history, but it cannot be said to have originated in England, as traces of such a system have been found in the fragmentary history of the Anglo-Saxon tribes, to whom reference has already been made as being the originators of some of our political institutions.

Historians generally have recognized the Germanic origin of this institution, and that its introduction into England was due to its existence among the Anglo-Saxon tribes who invaded England during the fifth century. A distinguished English historian, in describing the civil organization of these tribes, says :

“But the peculiar shape which its civil organization assumed was determined by a principle familiar to the Germanic races and destined to exercise a vast influence on the future of mankind. This was the principle of representation. The four or ten villagers who followed the reeve of each township to the general muster of the hundred were held to represent the whole body of the township from whence they came. Their voice was its voice, their doing its doing, their pledge its pledge.”*

Therefore it is safe to say that from time immemorial the principle of government by representation has been familiar

*Green's History of the English People. Vol. I., Chap. I.

to Englishmen, even before they came to live in their island kingdom, and while they inhabited their fatherland in Northern Germany and Denmark. For a time this system was applied only to the government of small communities, but, as the centuries rolled by, it received a wider application and finally became one of the chief factors in the administration of national affairs.

We cannot undertake to trace the history of the development of representative government in England through the centuries which have passed since the Anglo-Saxon invasion, but one of its critical stages may be noticed with profit. During the thirteenth century there was a long struggle between the King of England, who was seeking to retain absolute power, and the people, who were striving for greater political rights, under the leadership of Simon de Montfort, Earl of Leicester. In this struggle, called the Baron's War, which lasted for many years, the people finally triumphed, and in the year 1265 a Parliament was assembled, composed of representatives of all of the people.

Comparatively little is known of this Parliament, except that it was the first example of the complete application of the principle of representation to the affairs of the whole nation. Thirty years later the work was completed and perfected by the assembling, during the reign of Edward I., of what is called in English history the Model Parliament.

Then, to know fully the history of representative government, as it exists among the English-speaking people, it is necessary to commence with the German tribes who in ancient times inhabited the northern part of Europe, to follow them in their invasion of England, and to trace for many years the struggles with kings and nobles until the time of Edward I., and thence to the settlement of our own country in the early part of the seventeenth century. It is a

long story, filled with tales of human suffering, war and bloodshed, which we little realize in our day, so accustomed have we become to the enjoyment of these privileges secured by the continued struggles of our ancestors for so many centuries.

Public Office.—Another distinctive feature of our government is suggested by the principle emphasized at the beginning of this chapter, that the “consent of the governed” is the foundation of our system. Bearing this in mind, it naturally follows that we have no rulers in the governmental sense, for all of the officers of the government, from the President down to the humblest clerk of the rural village, are the agents of the people, chosen by them to do certain work and expected to carry out their wishes as expressed in laws enacted by the representatives of the people.

It has frequently been said that “public office is a public trust.” This is true, and means simply that the man who is chosen to hold a public office has intrusted to him by the people the performance of certain duties, and that he must at all times be prepared to give an account of his stewardship. If unfaithful, he is answerable to the people he has betrayed. Public officers are the servants, agents, clerks and treasurers, and not the masters of the people.

Written Constitutions.—We come now to consider a feature of our government which is peculiarly and distinctively American in its origin and development. It is known as the written constitution. The constitution is an important feature of all representative governments, whether the government be a limited monarchy, like that of England, or a republic, like the United States, and to thoroughly understand such a government we must know the meaning of the word “constitution” and all of its various applications.

The constitution, as the term is used in this country, means a written document defining the powers of the government, the terms and conditions of which furnish the test for determining whether or not the government is exceeding its powers in the performance of any specific act. It is often briefly defined as the supreme law of the land, the fundamental statute to which all other laws must conform. By this we mean that all other laws, whether enacted by Congress or any other legislative body, must comply with its provisions, and that any law which violates the constitution in any respect is void and of no effect, or, as it is ordinarily termed, is unconstitutional.

We may also regard the constitution as the instrument which sets forth in detail those rights which the people have surrendered to the general government for the common good, and the restrictions imposed upon the government in exercising these rights. It is the charter from the people to the government under which the government exists.

The constitution of the United States is a written instrument, setting forth in detail what powers can be exercised by the general government, and the manner in which its functions must be performed. It, therefore, limits and defines the objects, purposes and management of the government, and expressly provides, in one of its amendments, that the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or *to the people*, thereby affirming the doctrine that the fundamental source of power is the people, who may or may not delegate all of their powers to the government.

What has been said concerning the Constitution of the United States is in a measure applicable to the constitutions of the respective States. Each of the States within its bor-

ders has absolute control of the governmental machinery relating to the whole State. Leaving out of consideration local municipal affairs, all governmental powers which have not been committed to the federal government through the medium of the Constitution of the United States are exercised by the State government. It naturally follows that the constitution of a State will more intimately concern the private life and the daily acts of the citizens than the Constitution of the United States, because by far a greater number of matters are under the control of the State government than of the national government.

Branches of Government.—Another characteristic feature of our government under the constitution is the care with which the various departments of the government are separated, so that each will constitute a check upon the other. These constitutional provisions are peculiar to our government and are not to be found in England or other countries under a constitutional form of government. The functions performed by a government are divided into three classes, the legislative, executive and judicial.

The legislative, or law-making, department lies at the foundation of the government. As a government exercises its control over its citizens by means of laws, it is apparent that the law-making power is the first to be considered in any scheme of government, and that the right to make laws is one of the indispensable attributes of sovereign power.

The judicial department in a constitutional government exists for the purpose of interpreting the laws and applying them to the transactions of daily life. It exercises an important check upon the legislative department, because it determines whether or not any of the laws enacted by the legislature are in violation of the constitution, and, for that reason, void.

The executive department executes the laws. This may be done by providing the proper machinery for carrying into effect the declarations of the legislature without the intervention of any court, or by carrying out the decisions of a court as to the effect of the laws upon a given transaction.

Different Governments Under Which We Live.—We shall now consider briefly the triple character of the government under which every citizen of the United States lives, and show that he owes allegiance to three different governments—namely, the national government, the State government and the local or municipal government of the city, town or village in which he has his home. And herein we find a governmental arrangement peculiar to our own country, to which we may point with pride, because by means of it we have been able to become one of the great nations of the earth and at the same time have left with the people unimpaired the right of local self-government.

This great result has been accomplished through the medium of written constitutions, by which the people have delegated to these different governments the only powers which they can rightfully exercise. Thus the Constitution of the United States sets forth in detail those powers which are to be exercised and the duties which are to be performed by the Federal Government, which has no right whatever to exceed the limits imposed by the constitution. These powers are of such a character that they could not well be exercised by each individual State; because relating, as they do, to the welfare of the entire country, they must be exercised in a uniform manner throughout the entire territory.

The Federal Government, among other things, has power to regulate our intercourse with foreign nations, to pro-

vide for the support of the army and navy, to establish and maintain a postal system, to coin money and issue bills and notes which circulate as money, and to fix the terms and conditions under which people born in other countries may become citizens of the United States. It is apparent that powers such as these must be exercised by some central authority that can enforce obedience in all parts of the land, and for this reason the government of the United States as a nation was established.

The next government to which every citizen owes respect and obedience is that of the State in which he lives. The powers and prerogatives of the state governments are much more numerous than those of the national government. The only limitations placed by the Constitution of the United States upon the power of a state government are that it shall not exercise any of the powers which have been given exclusively to the United States, and shall not do certain other things expressly forbidden, which no State would probably ever wish to do, as coining money, granting titles of nobility or passing any law impairing the obligation of contracts. With these few restrictions, every governmental action is within the power of the State, subject only to such conditions as may be imposed by the people through the provisions of the State constitution.

The third government to which every citizen is subject is the municipal government of the village or city in which he lives. All city governments derive their powers from the legislature of the State in which they are situated and can exercise no power or authority except such as is granted by the act of the legislature creating the city government. These powers are numerous and intimately connected with the daily life of the citizen. The city government is the agency provided by the State for enabling the inhabitants of

a city to regulate their own local affairs, as the control of streets and sidewalks, the construction of buildings, the supplying of water, and numerous systems tending to promote the health and welfare of the citizens in their daily life.

In this way the magnificent fabric of our government has been created. It is a marvel of political ingenuity, because it is the only government which has solved the problem of preserving the right of the people to regulate local affairs and has constructed a powerful nation out of independent self-governing elements.

The Declaration of Independence.— When our forefathers decided to form an independent government for the benefit of the people of this country, they wisely determined to state definitely their ideas as to what such a government should be and the reasons for their action in a document signed by the representatives of the people, so that all who perused it could understand the motives which prompted their action.

This document was the Declaration of Independence. It is a model of brevity and logical reasoning, and embodies in its few lines the results of profound knowledge of the science of government. If thoroughly analyzed and comprehended it will be found to contain a complete statement of the objects for which governments exist, and in its arraignment of the king of Great Britain there is a protest against nearly every form of governmental abuse. Its statements of the principles of our government cannot be excelled and we cannot too often recur to its study, for in it we find literature of the greatest merit, political science never excelled and governmental philosophy whose soundness cannot be questioned.

The principles which are maintained by our government

are the equality of all men in the eyes of the law, the right of the individual to life, liberty and the pursuit of happiness, the consent of the governed as the foundation of all governmental power and the unquestioned right of the people to alter and change the form of government as they may see fit.

There are some who profess to regard these doctrines as old-fashioned, antiquated generalities, but these cannot be considered intelligent and patriotic citizens of the republic. The principles embodied in the Declaration of Independence have been, and still are, the hope of humanity, and to insure their perpetuation the greatest intelligence and watchfulness is required of every citizen.

CHAPTER IV.

COLONIAL GOVERNMENTS

It would be tedious to enumerate in detail the changes and alterations which took place in the government of the different colonies during the one hundred and fifty years, which intervened between the first settlement of our country and the Revolutionary War. Therefore we shall consider only the forms of government which prevailed in the colonies at a period just prior to the Declaration of Independence, because the governments of the various States have been the direct outgrowth of the colonial governments as they existed at that period, but slight changes, comparatively speaking, being needed in the case of the thirteen original colonies in order to adapt their governments to the necessities of a sovereign state.

The colonies had no written constitutions, in the sense in which the term has been heretofore explained, but each of them had fundamental written laws which took the place of a constitution. These laws were to be found in the charter or grant of power from the King of England to the colony, in the commission of the governor issued to him by the King, and in the various instructions from the British Crown and colonial offices to the officers of the colony.

The Charter.— In the history of the government of the British colonies in this country, the charter has almost as important a place as the constitution occupies in the government of the present day. A charter is defined as a grant

made by the sovereign, either to the whole people or to a portion of them, securing to them the enjoyment of certain political rights. In many of the colonies the charter was the fundamental law, but it was unlike a constitution, because a constitution is a fundamental law established by the people themselves, while the charter emanated from the sovereign, who was the King of England.

The term charter, as denoting a concession or grant of political rights from the ruler, came into use during the Middle Ages, when all governments were absolute in form. In those days the cities of Europe were the centers of education, art and refinement, and in many cases the people made such progress in wealth and civilization that they no longer were willing to submit to the exactions of an arbitrary government, and sought to obtain from their rulers moderate political privileges, enabling them to exercise in some degree the right of local self-government.

The written document by which the sovereign granted political rights in such cases as these was called a charter. Sometimes such a charter was obtained only after a long struggle involving war and bloodshed, and sometimes it was obtained by a cash payment to the ruler, and sometimes, when the ruler was a man of unusual intelligence, the rights were freely granted when deserved, the only consideration demanded being the continued loyalty of the people.

Magna Charta.—In English history, for many years the term charter was understood to refer to one document alone, known as Magna Charta, or The Great Charter. This document, which has almost as prominent a place in the political history of the United States as in that of England, was a grant of political rights, which King John of England was compelled to give to his people on the 15th day of June in the year 1215. This date should be remembered, for on

that day many of the rights which are now secured to us by our own laws were for the first time embodied in a permanent written form for the benefit of the people then living and of future generations.

Space will not permit us to tell the intensely interesting story of the long struggle between King John and his people which culminated in the granting of this famous charter, nor to relate the abuses which it corrected, and which, abandoned for so many years, can interest us now only as matters of curiosity and historical study. The importance of the document in those ancient times is best shown by the following words of the great English historian, which are just as significant to Americans as to Englishmen :

"Copies of it were made and sent for preservation to the cathedrals and churches, and one copy may still be seen in the British Museum, injured by age and fire, but with the royal seal still hanging from the brown, shriveled parchment. It is impossible to gaze without reverence on the earliest monument of English freedom, which we can see with our own eyes and touch with our own hands, the Great Charter, to which, from age to age, men have looked back as the groundwork of English liberty."*

And so, following the course of English history from century to century, we find that as often as the burdens of the people became unbearable, so often matters came to a crisis, and little by little the rights of the people increased and the absolute powers of the kings diminished ; but we are now concerned with the affairs of our own country alone, and these allusions to English political history are made only for the purpose of showing the long and steady growth and development of the cause of popular government, commencing with the meager concessions wrung by force from

*Green's History of the English People.

unwilling monarchs in the Middle Ages and culminating in the magnificent framework of our own government.

Colonial Grants.—In the seventeenth century, for the purpose of developing the natural resources of the North American colonies and thereby increasing the wealth, power and glory of his own kingdom, the King of Great Britain granted to some of his subjects charters authorizing them to fish, hunt and trade, to make settlements and occupy land on this continent. These charters granted to trading companies were the first fundamental laws which existed in this land, but later when the colonies had grown in population and wealth to such an extent that other governmental machinery was needed, more complete charters were granted in some cases, and in others a royal governor was appointed, who had the right to exercise such powers of government as might be included in the commission of the king appointing him.

We shall not attempt to study all of the different forms of government which existed at different times in the colonies, leaving that to be taken up in connection with your historical studies, where the subject properly belongs; but we should know something of these governments as they existed just prior to the Revolutionary War, in order to understand how dependent colonies were transformed into sovereign states.*

At this time the colonies, so far as their form of government is concerned, may be divided into three classes.

i. Royal Colonies.—This class includes the colonies of Virginia, Georgia, New Hampshire, New York, New Jersey, North Carolina and South Carolina. The government of these colonies was controlled almost entirely by

* An excellent account of the colonial governments may be found in Martin's Text Book of Civil Government.

England. The colony had no written constitution preserving and protecting the rights of the people, but the fundamental law which controlled their government was to be found in the instructions given their governor by the English Crown. They had a governor who was the chief executive officer, and a council appointed by the King to assist him in performing his duties.

The governor had the power of calling a legislative assembly for the colony, composed of representatives of the different sections, but no laws could be framed which were in any way repugnant to the English government. The governor also had a control over the acts of the legislative assembly, because if the assembly disregarded his wishes and persisted in enacting laws which did not meet with his approval, he could veto these laws and dissolve the legislative assembly whenever he saw fit. With the advice of his council he could appoint judges, create courts and perform many other functions of an absolute ruler. From this brief statement, it will be seen that the government in the colonies above mentioned had few of the distinguishing characteristics of a government by the people.

2. Charter Colonies.—While these colonies had no written constitution, they had a fundamental law which was to be found in the charter or grant of power from the king. This charter was in effect a constitution, because it gave to the people of the colony certain rights of self-government. Any attempt on the part of the English government to annul these charters, or in any way to modify the protection which they afforded to the people, always caused trouble, and to the frequent recurrence of these attempts may be traced the causes which led to the Revolutionary War.

The charter colonies were three in number—Massachusetts, Rhode Island and Connecticut. Of these three, the

charters of Rhode Island and Connecticut were most favorable to the cause of popular government in the colonies. Rhode Island and Connecticut were pure republics and both branches of the legislative assembly were elected by the people. In fact, so satisfactory were the charters to the people of these two colonies that the charter of Connecticut remained as its only constitution until the year 1818, and in Rhode Island no other constitution was adopted until the year 1842.

The charter of Massachusetts vested the executive branch of the government in the governor, who was appointed by the English government. The legislative branch consisted of an assembly of two houses, the lower house being composed of representatives chosen by the people. The House of Representatives, or the lower house of the legislative assembly, had the power of electing the upper branch of the assembly, which was known as the Governor's Council. Such elections were subject, however, to the veto of the governor. Thus, while the colonial government of Massachusetts was much more liberal and democratic than the government of the Royal Provinces, still it was not to be compared in this respect with the charters of Rhode Island and Connecticut.

3. Proprietary Colonies.—These colonies were three in number—Pennsylvania, Delaware and Maryland. They were called proprietary colonies because they originated in a grant of land from the King of Great Britain to an individual who was, by the terms of his grant, vested with the full power of framing and exercising a form of government over the territory under his jurisdiction. In these colonies the governor was appointed by the proprietary lord, but in some cases the proprietary himself acted as the governor.

In Maryland, under the terms of the grant from the King

of Great Britain, the office of proprietary was hereditary in the Calvert family. The government in this and other proprietary colonies was not unlike that of a limited monarchy. The people had no voice in the appointment of a governor, but did have the right to elect a legislative assembly to enact the laws for the government of the colony.

Pennsylvania and Delaware were separate colonies and had separate legislative assemblies, but they originated in the grant from the King of Great Britain to William Penn, who was the proprietary and in whose descendants the proprietorship vested, the same as in the case of the Calvert family in Maryland.

The Transition from the colonial forms of government to the government of a State was easy. In the case of Connecticut and Rhode Island, no change was necessary until many years after the independence of the United States, when the altered conditions due to the progress of the people in the nineteenth century made the former government antiquated and unsuitable. In Massachusetts only slight changes were necessary, such as providing for the election of a governor and both branches of the legislative assembly by the people and the removal of the name of the King of Great Britain from all legal documents and substituting, in lieu thereof, the name of the People of the State of Massachusetts. In the Royal Provinces the changes were more numerous, as the people in these colonies, by appropriate legislation, wiped out of existence all vestiges of royal authority, and enacted laws giving to themselves such rights as had formerly been granted by the King of Great Britain to the people of Rhode Island and Connecticut.

Political Status of the Colonies.—In this way the State governments of the thirteen original States were

framed, and the same model has been used in providing a government for the new States upon their admission into the Union. The political status of the colonies, at the time of the Revolutionary War and of the respective States of the Union after the federal government was formed, has been the subject of much discussion among writers upon historical and political subjects. This subject has been admirably treated by Mr. Justice Story in so brief and forceful a manner that we cannot do better than adopt his words as a guide :

“Though the colonies had a common origin and owed a common allegiance, and the inhabitants of each were British subjects, they had no direct political connection with each other. Each was independent of all others ; each, in a limited sense, was sovereign within its own territory. There was neither alliance nor confederacy between them. The assembly of one province could not make laws for another, nor confer privileges which were to be enjoyed or exercised in another, further than they could be in any independent foreign state. As colonies they were also excluded from all connections with foreign states. They were known only as dependencies ; and they followed the fate of the parent country, both in peace and in war, without having assigned to them, in the intercourse or diplomacy of nations, any distinct or independent existence. They did not possess the power of forming any league or treaty among themselves which should acquire an obligatory force without the assent of the parent state.

“But, although the colonies were independent of each other in respect to their domestic concerns, they were not wholly alien to each other. On the contrary, they were fellow-subjects, and for many purposes one people. Every colonist had a right to inhabit, if he pleased, in any other

colony ; and, as a British subject, he was capable of inheriting lands by descent in every other colony. The commercial intercourse of the colonies, too, was regulated by the general laws of the British Empire, and could not be restrained or obstructed by colonial legislation."*

Such was the condition of the colonies in the year 1775. But when the final struggle with the parent country commenced, the necessity for some sort of union among the colonies was more apparent than ever, because it would have been impossible for thirteen small states to successfully prosecute a war against the most powerful nation of Europe without combining their resources and presenting a united front to the common enemy. For this purpose temporary expedients were adopted, probably the best that could have been devised under the circumstances, but, as experience proved, wholly insufficient to regulate the affairs of a great nation.

Consequently, during the period from 1775 to 1789, when the present constitution was adopted, the government of the United States, except as to the local affairs of each colony, was unsettled to such an extent that many statesmen despaired of ever being able to form a successful national government.

*Story's Commentaries on the Constitution.

CHAPTER V.

FORMATION OF THE AMERICAN UNION.

The fifteen years which intervened between the meeting of the First Continental Congress, in 1774, and the beginning of government under our present constitution, were probably the most critical for the cause of popular government that have ever passed. During these years, the country's future was often imperiled, not only by the successes of the British army, in the earlier stages of the Revolutionary War, but at all times by the inefficiency of our own central government, and later, after our arms had been victorious and the power of England had been banished from our shores, by the petty jealousy, suspicion and rivalry which prevailed among the respective colonies.

Prior to the year 1774 there had been no permanent union of the colonies, but each had been careful to preserve its political identity. Such attempts as had been made toward effecting a union had been viewed with distrust by the colonists and regarded with disfavor by England. During the seventeenth century, between the years 1643 and 1683, there had been a defensive alliance between the New England colonies for the purpose of protecting their settlements from the attacks of hostile Indians, but this union did not contemplate or include within its scope any plan for the government of all the colonies by a central authority.

Albany Convention.—From time to time the political thinkers of the colonies discussed the feasibility of union,

and in 1754 Benjamin Franklin and others were instrumental in assembling a meeting of representatives from many of the colonies, known as the Albany Convention. At this convention a scheme for the union of the colonies was presented, but nothing came of the movement, for the plan was not received with favor, either by the inhabitants of the colonies or by the English government.

Stamp Act Congress.—The necessity for union had not yet appeared, and it needed the oppression of England to arouse in the colonists the spirit of independence. The attempted enforcement of the Stamp Act aroused such indignation that, in 1765, delegates from eight of the colonies met and protested against the obnoxious law. This assembly was known as the Stamp Act Congress. It had no legislative powers and did not attempt to exercise any authority over the colonies; but by its meeting the people of the country became, to some extent, imbued with the idea of uniting for the purpose of resisting the aggressions of the English government, and its protest was effectual in causing the repeal of the Stamp Act.

Oppressive Laws.—Notwithstanding these evidences of the temper of the colonies and their determination to resist all laws which did not recognize their rights as British subjects to the same extent as if they had been actual residents of England, the English government persisted in enacting legislation having for its object the imposition of taxes upon the colonists and restraining them from pursuing a free and untrammelled course in their commercial affairs.

Among these laws which the colonies regarded as oppressive may be mentioned the Townshend Acts, three in number, one requiring the legislature of New York to pro-

vide for the support of the English troops quartered in that colony, another establishing a Commission of Customs at Boston to enforce the collection of taxes and to regulate trade, and another placing a tax on glass, paint, paper, tea and other articles.

While these taxes were not burdensome in amount, nevertheless they aroused the most bitter opposition on the part of the colonists, because the attempt of the British government to levy and collect them violated a fundamental principle of representative government, the colonies believing that they had the legal right to resist the payment of any tax which was not levied with their full consent and concurrence. In other words, the colonists, not being represented in the English Parliament, contended that body had no right to impose taxes of any kind upon them; hence they boldly asserted the doctrine fundamental in all popular governments, that taxation without representation is unlawful.

First Continental Congress.—It is not our purpose to write a history of these troublous times between 1765 and 1774, and therefore we shall only enumerate certain laws enacted by the British Parliament which the colonists regarded as oppressive, and which led to the meeting of the First Continental Congress in the month of September, 1774, and shall leave the story of these transactions to be learned in connection with your historical studies or to be the subject of supplementary reading.

The laws to which reference has been made were the Boston Port Bill, virtually closing the port of Boston to commerce; the Transportation Bill, whereby in certain cases persons accused of murder in resisting the laws might be sent to England for trial; the Massachusetts Bill, an attempt on the part of England to modify the charter of Massachu-

setts; the Quartering Act, providing for the quartering of British soldiers upon the people; and the Québec Act, depriving the colonies of Massachusetts, Connecticut and Virginia of the vast Northwestern Territory claimed by them between the great lakes and the Ohio and Mississippi rivers, and annexing the same to the Province of Quebec.

The indignation aroused by the passage and attempted enforcement of these laws was such that, under the lead of Massachusetts and Virginia, a body composed of delegates from all of the thirteen colonies, except Georgia, assembled in Philadelphia to take such action as might be deemed necessary to obtain a redress of their grievances. This assembly is known in history as the First Continental Congress. It remained in session in Carpenter's Hall in Philadelphia from September 5, 1774, to October 26, 1774.

In these sessions the congress, on behalf of the people of the colonies, adopted a Bill of Rights* and formulated addresses to the people of the colonies and to the king and people of Great Britain, for the purpose, as it was hoped, of bringing about a better understanding between the parties to the controversy, and thus avoiding further conflict. It is to be noticed that at this time the people of the colonies were still loyal to England and had no thought of becoming an independent nation, but sought only to obtain what they conceived to be their rights as Englishmen. The acts of the First Continental Congress are important in the political history of our country because, by its proceedings, the sentiment in favor of union between the colonies was strengthened and developed, and at that time general laws were first enacted commanding the respect and obedience of the entire country, and, being ratified and approved by

*For an explanation of this term see page 103.

the respective colonies, they had all the dignity of national laws.

Second Continental Congress.—The Second Continental Congress met at Philadelphia in May, 1775. At this time the battles of Lexington and Concord had taken place and the authority of Congress was recognized as the supreme power of the land. Congress at once assumed management of the continental army, raised money for prosecuting the war with England, and, on behalf of the united colonies, entered into negotiations with foreign countries. The exercise of such powers as these is one of the attributes of sovereignty, and, with the creation of a central government representing the entire country, the history of the American Union commences.

The Continental Congress has been called a revolutionary body, because there was no legal authority for its existence. Its organization was the spontaneous act of the people, caused by the pressing necessity for some central government. It assumed to act with an authority which it did not really possess, because no powers had ever been conferred upon it expressly by the people, and its existence was due solely to the necessity of meeting the crisis occasioned by the war with England.

The most of its acts had the effect of general laws, as they met with the consent and approval of the people; otherwise Congress would have been powerless to enforce its own commands.

Need of a Central Government.—Such a government as this could not be otherwise than inefficient and unsatisfactory, and with the Declaration of Independence, the need of a stronger central government was more apparent than ever, for then the united colonies assumed a

place among the sovereign, independent nations of the world and required a government having at least power to enforce the obedience of its own citizens.

The problem of framing such a government was difficult under the conditions which then existed. Community of race and language, similarity of political institutions, common interest and common dangers, all impelled the colonies toward a strong federal union, but, on the other hand, the spirit of distrust and jealousy, the fear that the larger colonies would absorb the smaller and the feeling of local pride on the part of the different colonies tended to keep them apart.

Articles of Confederation.—Accordingly, in the year 1777, the Articles of Confederation were prepared and submitted to the people of the colonies for approval. This approval was necessary, because the principle that the powers of the government could be exercised only with the consent of the governed had been enunciated by the Declaration of Independence. The object of the Confederation was stated to be the formation of a "league of friendship" between the States "for their common defense and the security of their liberties and their mutual and general welfare." The Articles of Confederation were finally adopted in the year 1781, when the war with Great Britain had practically ceased; but government under them was a failure, because their plan, while contemplating the creation of a national government, still did not deprive the states of their sovereign powers and left them undisturbed in the exercise of powers inconsistent with the theory of a strong central government.

For example, it is impossible for any government to exist unless it has the power of raising money with which to meet its obligations. This must be done by taxation,

which is simply a method of taking a certain amount of the private property of citizens and applying the same to the payment of the expenses of the government incurred for the common good of all.

Under the "league of friendship" the expenses of government were to be paid out of the common treasury, supplied by the States in proportion to the value of all land within each State, but the taxes for paying that proportion were to be levied by the legislatures of the several States. Consequently, no matter how seriously Congress might need money, it could obtain none unless the States carried out their compact and levied the necessary taxes, a thing which they generally failed to do. Hence, at the very outset, we find the national government absolutely without the power of taxation, probably the most necessary and fundamental prerogative for any government to possess.

Another of the inseparable attributes of sovereignty is the power to make treaties with foreign nations for the purpose of regulating trade between the countries. Under the Articles of Confederation, Congress had no such power, and consequently Spain and Great Britain refused to make any commercial treaties with the new government, and, in addition, did all they could to hamper the commerce of the States by exacting burdensome taxes upon imported goods and by other restrictions upon trade. This condition of things imposed great hardship upon the people of this country, because they were neither able to purchase abroad many articles of necessity not manufactured here, nor could they dispose of their own agricultural products, which constituted their chief wealth.

A short experience with the scheme of government furnished by the Articles of Confederation served to show that numerous amendments were required to promote the effi-

ciency of the government, and that without such amendments the union of the States, instead of being perpetual, as the Articles had planned, was in constant danger of complete disruption. When this conclusion was reached another glaring defect was found, in that it was provided by these Articles that no amendment could be made unless agreed to in a congress and afterward confirmed by the legislatures of all the States, thus rendering it extremely difficult, if not in many cases absolutely impossible, to secure any alteration in the governmental system.

The Critical Period.—Many other defects in the Articles of Confederation might be mentioned, but these few will serve to show how imperfect was the system. After the close of the Revolutionary War, and from 1781 to 1789, the condition of the country was deplorable. This has been called "the critical period of American history," because then the chances for the success of popular government in this country were about evenly balanced. It was, indeed, "a time that tried men's souls," as had been said of the Revolutionary period.

The close of the war had left the country burdened with a large debt, on which Congress could not pay the interest, because it had no money and no means of getting any. States often refused to pay their due proportion into the public treasury. Open rebellion existed in some parts of the country and Congress was powerless to enforce order. No gold was in circulation and paper money had been issued by the States and by Congress to such an extent as to depreciate its value and render it worthless. Commerce was at a standstill and the entire country was bankrupt. Thoughtful people feared a state of anarchy would soon prevail and the disruption of the Federal Union would follow, some even believing that England would again conquer

the country, for the king's troops were still quartered in the military posts along the northern frontier.*

The Constitutional Convention. — Under such circumstances as these the necessity for a stronger central government became imperative, but the result was not easy to accomplish. More than one attempt was made and failed, but finally a convention composed of delegates from all of the colonies, except Rhode Island, was assembled in Philadelphia on the 14th day of May, 1787. This convention continued in session for four months, and as the result of its labors the present Constitution of the United States was framed and presented to the people for approval.

But little is known as to the debates, which occurred during the meetings of this convention, for the only record of its proceedings which has been preserved for our study consists of the notes taken by James Madison and others, who were in attendance as delegates. These notes were very full and make most interesting reading, because they show the range of subjects under consideration and the names of those who were in attendance and participated in the discussions.

From these records we learn that the proceedings were reasonably unanimous and free from violent discussion, except upon three questions, the most important of which was the manner in which the different States should be represented in the Federal Congress. And here we again have occasion to notice distrust and suspicion on the part of the smaller toward the larger States. The representatives from the smaller States insisted that, inasmuch as the convention was forming a union of sovereign States, each of the States should have an equal representation in Con-

* See *Critical Period of American History*, by John Fiske.

gress, while on behalf of the larger States it was urged that the number of representatives from each State should be based upon its population.

This dispute was compromised by giving to each of the States an equal representation in the Senate, and providing that in the House of Representatives the number of members from each State should be determined by the population. The two remaining questions which provoked serious discussion were whether or not the slave trade should be permitted to continue, and how slaves should be counted in estimating the population of a state as a basis for determining the number of members to which it should be entitled in the House of Representatives. These questions were of immense importance at that time, but owing to the complete abolition of slavery in this country, they are now interesting to us only as matters of history.

This convention was one of the most remarkable bodies that ever met, both on account of the momentous work accomplished by it, and by reason of the personnel of its members, among whom may be mentioned Washington, Randolph and Madison from Virginia; Alexander Hamilton from New York; Benjamin Franklin and the two Morrisces from Pennsylvania; John Rutledge and the two Pinckneys from South Carolina; Roger Sherman from Connecticut—and many others, all constituting an assemblage of political thinkers whose sagacity has never been surpassed.

On September 17, 1787, the convention completed its labors, and, after the members had signed the new constitution, "it dissolved itself by an adjournment *sine die*." The journal kept by Mr. Madison gives some hint of the impressiveness of the occasion by concluding with the following narrative:

"Whilst the last members were signing, Doctor Franklin, looking toward the President's chair, at the back of which a rising sun happened to be painted, observed to a few members near him that painters had found it difficult to distinguish, in their art, a rising from a setting sun. 'I have,' said he, 'often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising and not a setting sun.'"

The happy prognostication of the venerable philosopher and patriot has proved to be true, for, after more than a century of trial, under varying conditions and unforeseen dangers, the American Constitution has come to be regarded as a masterpiece of political wisdom, not only by those who directly enjoy its benefits, but by students of political institutions throughout the world. Encomiums without number have been lavished upon it, but none is more forcible and sincere than the words of the English statesman, Mr. Gladstone, who says:

"As far as I can see, the American Constitution is the most wonderful work ever struck off at one time by the brain and purpose of man."

Equally significant are the following words of Mr. Froude, the great English historian:

"The problem of how to combine a number of self-governed communities into a single commonwealth, which now lies before Englishmen who desire to see a federation of the Empire, has been solved, and solved completely, in the American Union. The bond which, at the Declaration of Independence, was looser than that which now connects Australia and England, became strengthened by time and

custom. The attempt to break it was successfully resisted by the sword, and the American Republic is, and is to continue, so far as reasonable foresight can anticipate, one and henceforth indissoluble."

These are the words of disinterested critics and therefore cannot be attributed to patriotic enthusiasm.

The constitution was finally ratified by the requisite number of States in June, 1788, and since that time it has been the supreme law of the land.

CHAPTER VI.

OUTLINE OF THE FEDERAL GOVERNMENT.

The preamble of the constitution states, within its few lines, that it is the act of the people of the United States in whom the sovereign power is vested, and also shows, in remarkably small compass, the legitimate objects for which governments exist.*

The best government is that which secures such objects as are mentioned in the preamble with the least sacrifice of personal rights on behalf of the citizens, and the least interference with local affairs on the part of the general government.

In commencing our study of the Constitution, we notice the division of the government into three branches—legislative, executive and judicial—and observe that the scope of each of these departments is strictly defined, so that there may be no dispute between the different branches as to the duties with which each is charged by the constitution.

The legislative powers of the government are vested in a Congress of the United States, consisting of a Senate and House of Representatives, the Senate being designated sometimes as the upper house and the House of Representatives as the lower house of Congress. Congress must assemble at least once in each year, and the

*For text of preamble, see Appendix A.

session commences on the first Monday in December at the City of Washington.

House of Representatives.—The House of Representatives is composed of members chosen every second year by the people of the different States. To be eligible for the office of representative in Congress a person must be at least twenty-five years of age and have been for seven years a citizen of the United States, and must be an inhabitant of the State from which he is chosen. The number of representatives to which any particular State is entitled depends upon the population of the State, the only persons excluded in determining the number of representatives at this time being Indians.

At the time of the adoption of the Constitution each State was allowed one representative for every 30,000 of population, but every State having a population of less than 30,000 was entitled to one representative. At the present time the ratio of representation is determined by the census of 1890, and each State is allowed one representative for approximately every 175,000 of inhabitants. The Constitution makes no provision for the appointment of any officers of the House of Representatives except the presiding officer, who is called the Speaker, and who must be a member of the House. Other officers, such as the Clerk, Sergeant at Arms and Chaplain, are not members of the House.

Senate.—The Senate of the United States is composed of two Senators from each State, chosen by the State Legislature for a term of six years. The members of the first Senate were divided into three classes, holding their offices respectively for terms of two, four and six years, so that the term of office of one-third of the Senators expires every second year, and it consequently never happens that the Senate is composed entirely of new members. In case the

office of Senator from any State becomes vacant while the legislature of the State is not in session, the governor has power to make a temporary appointment until the legislature meets. It has generally been held that the governor does not have power to make a temporary appointment in case of vacancies occasioned by a failure of the legislature to elect, although in recent years several such appointments have been attempted to be made.

The qualifications of a Senator are that he must be at least thirty years of age and must have been a citizen of the United States for nine years, and must be an inhabitant of the State from which he is chosen. The Vice-President of the United States is the presiding officer of the Senate, but he has no vote unless the Senate is equally divided. All other officers of the Senate are chosen by the Senators, and among them is a president *pro tempore*, who presides in the absence of the Vice-President and performs all of the duties of the Vice-President in case the Vice-President is required to exercise the duties of the President, as was the case when Chester A. Arthur became President of the United States by reason of the death of President Garfield.

Executive Department.—The executive power of the government is vested in the President, who holds his office for four years. No person can be President of the United States except a natural-born citizen who has attained the age of thirty-five years and who has been for fourteen years a resident within the United States. In case of the removal of the President from office or of his death, resignation or inability to act, all of the duties of the office devolve upon the Vice-President, and Congress has power to provide by law who shall act in case of the death, resignation or disability of both President and Vice-President. In such case an Act of Congress, passed in the year 1886, has determined

that the presidential office shall devolve upon the officers composing the President's cabinet, in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior.

Method of Electing the President.—The method of electing a President and Vice-President is a peculiar one, which was devised by the framers of the Constitution to avoid submitting to a popular vote the election of these important officers, they deeming it unsafe to leave to the excitement of a political campaign the question of determining who shall occupy these positions. Accordingly they devised a scheme known as the Electoral College, under which each State chooses a number of electors equal to the number of Senators and Representatives to which the State is entitled in Congress.

These electors are chosen by popular vote, and shortly after their election they are required to meet in their respective States and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves, naming in their ballots the person voted for as President and in distinct ballots the person voted for as Vice-President. After they have voted, three lists are made of all persons voted for as President and Vice-President, with the number of votes for each. These lists are signed and certified by the electors and sent to the Capitol of the United States at Washington, directed to the President of the Senate.

The method of transmitting these certified lists to the President of the Senate is interesting. One copy is delivered to him at Washington by a special messenger before the first Wednesday in January succeeding the election; another is sent to him by mail; and the third is committed

to the custody of the judge of the district, to be delivered by him to the Secretary of State, in case neither of the other certificates has been received by the proper officer at Washington before the first Wednesday in January.

Counting the Vote.—The President of the Senate is required to open the certificates in the presence of the Senate and House of Representatives and count the votes. The person having the greatest number of votes for President is elected, provided such a number be a majority of the whole number of electors. If no person has such a majority, then from the persons having the highest number of votes, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose by ballot the President, but in voting for President the House votes by States, each State being entitled to one vote.

In a similar manner the person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors, and if no person has a majority then the Vice-President is chosen by the Senate from the two highest numbers on the list. No person can be elected to the office of Vice-President unless he has all the qualifications necessary to make him eligible for the office of President.

Judicial Department.—The judicial department of the United States is vested in one Supreme Court and in such inferior courts as Congress from time to time shall establish. All of the judges of these courts hold their offices during good behavior, consequently an appointment to an office of this kind is highly prized, for it is practically an office for life. The jurisdiction of the United States courts extends to two classes of cases, one class being dependent upon the laws applicable to the case, and the other class being dependent upon the character of the persons engaged

in the litigation. Among the first class of cases are those arising under the Constitution of the United States, the laws of Congress and the treaties between the United States and foreign governments, and under the second class are included cases affecting ambassadors and other public ministers and consuls and the controversies in which the United States or any of the States shall be a party, and between citizens of the different States or of foreign States.

Treason.—In connection with the judicial department it is proper to note the only crime against the United States which is defined by the Constitution—viz: the crime of treason, which consists solely in levying war against the United States or in adhering to its enemies, giving them aid and comfort. In former times treason has had a much wider definition, and history is filled with accounts of persons who have been condemned to death or to severe penalties for committing comparatively small offenses, because these offenses happened to be within a category of crimes any one of which constituted treason. For this reason the framers of the Constitution no doubt thought it necessary for the protection of future generations that the meaning of the word treason should be definitely established.

This, in brief, is an outline of the framework of the government of the United States, and its simplicity is probably its most notable feature. In subsequent chapters we shall show in detail the powers and duties of each of the departments of the government, and, as we proceed, the wisdom of the framers of the Constitution will become more and more apparent, in devising a scheme of government based upon the requirements of a nation having a few millions of inhabitants, but which has been found sufficient to meet all the requirements for so many years, with all the changes

resulting from an enormous increase in population and the difference in conditions existing between life at the present day and that of 100 years ago.

NOTE: In connection with the study of this chapter frequent reference should be had to the text of the Constitution, which will be found in Appendix A.

CHAPTER VII.

THE POWERS OF CONGRESS.

The powers of Congress are so numerous and important as to require special attention and explanation, otherwise the few brief paragraphs in the Constitution containing the grant of these powers will not be fully understood, and the student will fail to obtain a full comprehension of the wide range of subjects upon which Congress is authorized to legislate.

Taxation.—The power of levying taxes is one of the indispensable attributes of sovereignty, because no government can exist unless it is able to raise the necessary funds for its support. Probably from these considerations the first power granted to Congress by the Constitution was the power to lay and collect taxes, duties, imposts and excises, subject to the single condition that they shall be uniform throughout the United States. All of the laws enacted by Congress upon the subject of taxation are based upon the authority conferred by these few words.

Duties and Excises.—A tax may be defined as that portion of his property which each citizen is obliged to contribute for the support of the government. Duties, imposts and excises are different kinds of taxes, each word having a distinct meaning indicating the nature of the tax designated by it. Duties are taxes imposed by the government upon the importation and sometimes upon the exportation of merchandise. An impost is another term

used to designate a tax on imported goods, having practically the same signification as the word duty. Excises are also called internal revenue taxes and are laid upon a few articles produced, manufactured or sold in this country, principally tobacco, cigars and distilled liquors.

In times of peace all of the revenues of the United States government are derived from duties and excises, but in times of war, when the government is under increased expense, a great variety of additional internal revenue taxes is imposed in order to pay for the cost of supporting the army and navy and carrying on military and naval operations, often costing several millions of dollars each day.

Tariff.—Duties are collected by government collectors, who are stationed at all of the important seaports and border towns, who inspect all merchandise brought into the country, determine the amount of tax upon each article and see that the tax is paid before the articles are delivered to their respective owners. A list of the articles upon which a duty is charged, together with the rate of duty upon each of such articles, is called a tariff, and the government office where the business incident to the collection of duties is transacted is called a custom house.

Indirect Taxes.—Taxes of this kind are called indirect taxes, because they are finally paid by the person who purchases the imported goods for his own use. For instance, a merchant in the United States purchases silk ribbon in France at the rate of twenty-five cents per yard. Upon its arrival in this country he is obliged to pay a duty at the rate of fifty per cent of its cost. A few weeks later he sells the ribbon over the counters of his retail store for a price sufficient to pay the original cost, together with the duty which he has paid, the cost of transportation and a reasonable profit for his labor and trouble. Thus, a lady who buys

this ribbon to furnish decorations for her hat or dress indirectly pays the tax to the government.

Direct Taxes.—Direct taxes are those which are imposed upon specific kinds of property, such as land, houses, pianos, watches, jewelry, carriages or sewing machines. A poll tax is also a direct tax. The United States government levies no direct taxes whatever, but leaves that form of taxation to be employed by the States.

Borrowing Money.—Closely connected with the power of raising money by taxation is the power to borrow money on the credit of the United States to meet the expenses of the government. It is seldom necessary for Congress to avail itself of this power in times of peace, because, under ordinary circumstances, a well-devised system of taxation will provide sufficient revenue to carry on the government; but when war occurs or for other reasons the government is put to extraordinary expenses, then Congress has the power to raise funds by borrowing. In such a contingency Congress enacts a law determining the amount of money to be borrowed, the nature of the securities, usually bonds, to be given to the lenders, the rate of interest to be paid and the time and place for the payment of the principal and interest. When this has been done the securities are placed in the hands of the Secretary of the Treasury, who delivers them to the persons lending the money to the government. The credit of the United States government is so good that it never has any difficulty in borrowing enormous sums of money at a low rate of interest.

Regulating Commerce.—The power to regulate commerce with foreign nations, which is conferred upon Congress, is the source of a large number of laws enacted for the purpose of protecting American ships and controlling the conduct of sailors on board them, as well as caring

for American commercial interests in foreign lands. To protect the commercial interests of our citizens in other countries, the government has agents called consuls stationed at all important foreign ports, who perform all acts necessary to prevent fraud or injustice in the treatment of citizens of the United States. Under the same grant of power Congress has made provision for establishing lighthouses, improving harbors, inspecting vessels, and has made many rules, such as those relating to quarantine and the employment of competent pilots, all of which are designed for the protection of our citizens and merchants.

Inter-State Commerce.— Under the same clause of the Constitution, Congress is given power to regulate commerce between the States, and in 1887 it exercised this power by passing a law, called the Inter-State Commerce Act, to afford relief from many of the abuses then prevalent in connection with the management of the railroad systems of this country. By this law railroads are forbidden to discriminate between persons by giving a lower freight rate to one shipper than to another, or to favor any particular city or locality by giving to it more advantageous freight rates than to another.

They are also prevented from entering into combinations tending to destroy competition by keeping up the price of passenger transportation and freight charges, and it is made unlawful for them to attempt to influence public officers by giving them free passes. To provide for the enforcement of this law Congress created the Inter-State Commerce Commission, which is composed of five members, appointed by the President and called Commissioners. This commission hears and determines all questions arising under the Inter-State Commerce Law, and is rapidly becoming one of the most important tribunals in the

whole country, owing to the number and magnitude of the matters coming before it for adjudication.

Coining Money.—The next power of Congress which we shall notice is one with which the commercial interests of the country are deeply concerned—namely, the power to coin money and regulate the value thereof. No business of any kind can be transacted without money, which is a medium enabling a citizen to exchange one commodity for another. In civilized communities no one person produces everything which he needs for his own use, but devotes his energies to the production of a few articles only. The farmer raises more corn and potatoes than he can use, and the surplus he exchanges for clothing for himself and family and for other articles which he cannot produce on his farm. As it is not easy to find a person who has a stock of clothing which he wishes to exchange for corn or potatoes, the farmer accomplishes his purpose by selling his products for money, and with that money he purchases such articles as he needs.

Money may, therefore, be defined as a medium of exchange in commercial transactions. It is also a standard for determining the value of all the different kinds of property. It follows that the money used must be of uniform value throughout the country, and that the monetary system must be fixed and certain. For this reason the United States government alone has the power to coin money and to issue bills and notes which circulate as money.

Different Kinds of Money.—In the United States the standard of value is the gold dollar,* and to provide the money necessary to carry on the business transactions of the country Congress has, from time to time, enacted

*The gold dollar weighs 25.8 grains, of which 23.22 grains are pure gold and 2.58 grains are alloy.

laws under which different kinds of money have come into use.

Gold coins of various denominations are made at the United States mints, the most frequently used being the \$20, \$10 and \$5 gold pieces. Uncoined gold in blocks and bars is equally valuable, and where large payments in gold are to be made is preferable because it is more easily handled and does not lose its value as gold coins do by the friction of one upon the other. Gold coin and gold bullion are also deposited in the United States Treasury and the depositor receives for his gold a kind of paper money called a gold certificate, certifying that gold equal in amount to the face of the certificate has been so deposited, and that the holder of the certificate can exchange it for gold at any time he wishes. These certificates are used for convenience, as gold in large quantities is a bulky commodity and gold coin depreciates in value by the wear incident to constant handling.

The United States government at the present time coins silver money of four denominations—the \$1, 50-cent, 25-cent and 10-cent pieces, the last three being termed subsidiary coins. Silver certificates are issued in the manner that has been described in speaking of gold certificates, but in smaller denominations. Silver bullion is not used as money, because the silver contained in a silver dollar is less valuable than the gold contained in a gold dollar, and consequently silver bullion is less valuable, according to its weight, than silver dollars.

Minor coins, consisting of 5-cent pieces, or nickels, as they are ordinarily termed; and copper cents, are furnished, as they are convenient in small business transactions and their use is a matter of daily necessity.

Treasury notes are promissory notes issued by the gov-

ernment. They are sometimes called "greenbacks," and were first issued during the civil war. At first they were not exchangeable for gold or silver coin, and their value depended wholly upon the credit given to the government and the confidence of the public in the government's ability to pay its debts, for these notes were evidences of government indebtedness, just as is the case with the promissory note of an individual. In the year 1879, provision was made by Congress for the redemption of these notes in coin, and for that purpose a reserve fund of \$100,000,000 in gold coin or bullion is kept in the treasury at all times, and these notes are now just as valuable as gold or silver certificates.

National bank notes are a kind of money issued by national banks throughout the country, but subject to conditions imposed by Congress. National banks are corporations* organized under and by virtue of an Act of Congress. This act provides that a portion of the capital of the bank must be invested in bonds of the United States, which must be deposited in the United States Treasury. The banks are then allowed to issue their promissory notes to the extent of the face of the bonds deposited by them. These notes are payable in coin or greenbacks and circulate as money, because their payment is guaranteed by the government, and consequently they are just as valuable as if they had been issued by the government itself.

*A corporation is an institution, created by governmental power, composed of individuals and exercising powers and privileges not possessed by the persons composing it. The most important of these are continuous legal identity and perpetual succession under the corporate name, notwithstanding the changes in the members by death or otherwise. Chief Justice Marshall said: "A corporation is an artificial being, invisible, intangible and existing only in contemplation of law."

A large portion of the business transactions of the present day is transacted by corporations, such as banks and insurance, railroad and telegraph companies and other organizations in almost every branch of industry.

Patents and Copyrights.—Congress has power to protect inventors and authors by securing to them for limited periods the exclusive right to their respective inventions and writings. The wisdom of granting such protection as this to promote the progress of science and the useful arts is manifest, for advancement in civilization and power goes hand in hand with the progress of science. In exercising these powers, Congress furnishes protection to an inventor by granting him a patent upon his invention, and to an author or artist by giving him a copyright on his writings or drawings.

A patent is an instrument in writing by which the United States Government guarantees to an inventor the exclusive right to manufacture and sell his invention for a period of seventeen years. The granting of patents is under the charge of the Commissioner of Patents, whose office is a branch of the executive department of the government.

A copyright secures to an author or artist the exclusive right to print, publish, manufacture and sell his writings or works of art for the period of twenty-eight years, at the expiration of which it may be renewed for an additional period of fourteen years. Copyrights are granted by the Librarian of Congress, who is an independent executive officer directly under the control of Congress and not attached to any of the executive departments.

Bankruptcy.—The power of Congress to establish uniform laws on the subject of bankruptcy throughout the United States is one that has recently been exercised by the enactment of a law called the National Bankruptcy Law. A bankrupt is a person who, through business misfortunes or for other reasons, is unable to pay his debts, or whose debts are greater in amount than the value of all of his property. Under such circumstances it is right and

just that the debtor should surrender all of his property to his creditors to be divided among them in proportion to their respective claims, and, having done so honestly, that he should be released and discharged from all further obligation to pay the balance of his debts. In this way, all creditors alike are enabled to secure their just proportion of the debtor's assets and the debtor is allowed to commence business anew. To secure these results the present bankruptcy law was passed and is now in operation under the control of the various District Courts of the United States.

Naturalization.—Another very important power conferred upon Congress is that of establishing a uniform rule of naturalization—that is, of determining in what manner and under what conditions persons born in foreign countries may become citizens of the United States. These rules should be the same in all States, because the Constitution declares that the citizens of each State shall have all the privileges of citizens of every other State. Therefore, in order to secure this uniformity, it follows that naturalization laws must be enacted by the United States Government.

These laws require that the subject of a foreign state who wishes to become a citizen of the United States must make a declaration of his intention in that behalf under oath before a court of competent jurisdiction. When this has been done, a record is made of the declaration and a certificate showing the proceeding is given to the applicant. After the expiration of at least two years, the process is completed by applying to the court for a final certificate of naturalization. At this time the applicant is required to prove by a credible witness that he has resided in the

United States at least five years, and in the State where the application is made at least one year; that his moral character has been good during this period, and that he is attached to the principles of the Constitution and well disposed toward the Government of the United States. The candidate for citizenship should have a fair knowledge of the Constitution and government of this country. After this proof has been made, the applicant is required to take an oath in which he renounces allegiance to all foreign powers and potentates, specifying in particular the one to which he has been subject, and declares that he will support the Constitution of the United States. The process is now complete and a certificate of naturalization and citizenship is given to the applicant by the court in which the proof has been made.

An applicant for citizenship who came to this country before he was eighteen years of age is not required to make the original declaration of intention, and soldiers in the United States army who have been honorably discharged may take the oath of allegiance after one year's residence in this country.

Territorial Government.—The fundamental law of all territories of the United States is the Constitution, but the form of government of a territory is determined by Congress. The power of organizing the government of a territory is vested in Congress by a few words of the Constitution, authorizing that body to “make all needful rules and regulations respecting the territory or other property belonging to the United States.”*

The political rights granted to the inhabitants of a territory depend upon many considerations, among which are

*See Sec. 3, Article IV, of Constitution.

the extent and character of the population, the education of the people and their ability to manage local affairs.

It is, therefore, impossible to describe in detail the form of government employed in the territories, because it has differed somewhat in each case. Generally speaking, the right of local self-government has been recognized by Congress, but the people of the territory have no voice in federal affairs. A Territory has no constitution, its place being supplied by the act of Congress under which the Territory is organized. This act usually determines the qualifications of voters, describes the powers of the Territorial government, provides for the appointment of a governor and judges by the President, and establishes legislative, judicial and executive departments, limiting and defining their powers and relations to each other.*

Classification of Powers of Congress.—The powers conferred upon Congress are for the most part enumerated in Section 8 of Article I of the Constitution, and so concise and explicit is the language employed that it is difficult to find a single superfluous word in the entire section. It is, therefore, necessary that every student of the Constitution should be familiar with the contents of this section, as well as a few other sections containing grants of power to the United States Government. To assist in attaining this familiarity without attempting to memorize the text of the Constitution, the following classification of the powers of the United States Government, made by a distinguished commentator, who was one of the framers of the document, will be found to be useful, the basis of classification being the objects sought to be accomplished by the granting of the various powers:

*See Chapter XIII for brief description of the government of the Northwest Territory.

1. Powers granted in order to afford security against foreign danger, among which may be included those of declaring war, raising and supporting armies, providing and maintaining a navy, making rules for the government of the land and naval forces, and levying taxes and borrowing money.

2. Powers necessary for the regulation of intercourse with foreign nations, which include the power to regulate foreign commerce, to define and punish piracy and other offenses against the law of nations, and certain powers vested in the executive branch of the government relating to the making of treaties and sending ambassadors, ministers and consuls to foreign nations.

3. Those powers which have for their object the maintenance of harmony and proper intercourse among the States. This class is the most numerous of all, and in it may be included the powers to regulate commerce among the several States; to coin money and regulate its value; to provide for the punishment of counterfeiting the securities and coin of the United States; to establish a uniform rule of naturalization and bankruptcy laws; to establish postoffices and post roads; and also certain restraints upon the power of the States and certain judicial powers, which will be described hereafter.

4. Powers for the promotion of certain miscellaneous objects of general public utility. This class includes the power to protect inventors and authors by granting patents and copyrights; the power to exercise exclusive legislation over the territory known as the District of Columbia, in which the seat of the government is located, and a similar authority over all forts, arsenals, magazines, dockyards and other needful buildings; to declare the punishment of treason; and certain powers relating to the gov-

ernment of States and Territories, and to the admission of new States into the Union.

5. Certain provisions enabling Congress to exercise efficiently the powers given to it. The first of these provisions gives to Congress the power to make all needful laws for carrying into execution the foregoing powers and all other powers vested by the Constitution in the Government of the United States, or any of its departments or officers, and the second is that provision which makes the Constitution and laws of the United States the supreme law of the land, notwithstanding anything to the contrary contained in the Constitution and laws of any State.

NOTE.—The classification above given is adapted from articles in *The Federalist*, of which James Madison was the author.

CHAPTER VIII.

THE EXECUTIVE DEPARTMENT.

The few sections of the Constitution relating to the executive department give but a slight idea of the number and importance of the duties discharged by this branch of the government, and if we confined our investigation solely to a consideration of the functions of those executive offices created by the Constitution, we should be limited to the President and Vice-President, who are the only officers of that department therein mentioned. Bearing in mind that the members of the President's Cabinet, eight in number, the heads of numerous bureaus and departments, commissioners of various kinds, the general-in-chief of the army and his subordinates, the admiral of the navy and many others, all are executive officers, it may seem strange that the framers of the Constitution neglected to embody in that document more detailed provisions as to this department.

On the other hand, recollecting that in 1789 the nation had a population of only a few million inhabitants and that the essential framework of a government for the country in those days was simple as compared with the requirements of the present day, it is an additional evidence of the wisdom of our forefathers that they did not attempt to provide in express terms all of the details of the executive branch of the government which might be rendered necessary by the change in conditions incident to the growth and development of a century of progress.

The framers of the Constitution vested the executive power in the President alone, giving him authority to appoint certain other executive officers, but had sufficient foresight to leave with Congress power to create such other offices, subordinate to the President, as future circumstances might require. Therefore, the executive department as it exists to-day and the duties of all executive officers, with the exception of the President and Vice-President, are dependent upon acts of Congress and not upon provisions of the Constitution.

POWERS AND DUTIES OF THE PRESIDENT.

Commander-in-Chief.—The President, by virtue of his office, is commander-in-chief of the army and navy and of the militia of the various States when called into the actual service of the United States. It has happened in many cases that the President has been a man of military experience and well qualified to act as commander of the army, but the office has never been filled by a man having a naval training, and in most cases the President has not been qualified by personal experience to command either the army or the navy. Therefore, the actual management of these branches of the government is left to the war and navy departments, while the President, as commander-in-chief, appoints the heads of these departments and other subordinate officers. He also has the power of assigning officers of the army and navy to their stations and duties and of controlling the movements of both branches of the service and of determining the plans to be followed and the policy to be pursued in their management.

Opinions of Executive Officers.—To aid and guide him in the discharge of his duties he may require the opin-

ion in writing of the head of any of the executive departments upon any subject relating to the duties of the department, and thus he is able at all times to obtain expert advice upon questions concerning which he may not have personal knowledge. The power thus given to the President to demand this assistance implies a requirement that the officer whose opinion is sought shall give it fully, honestly and exhaustively.

Reprieves and Pardons.—The President can grant reprieves and pardons for offenses against the United States, except in cases of impeachment. A *reprieve* is an order delaying the execution of a sentence for a specified time, and a *pardon* is a grant of complete absolution from the consequences of criminal offense. Under monarchical governments the power of granting reprieves and pardons is a royal prerogative and is exercised only by the sovereign.

Treaties.—With respect to the relations between our government and foreign nations, the President is charged with the exercise of powers and the discharge of duties of great importance. He has the power of making treaties, which are agreements between two or more nations relating to matters which concern the welfare of the inhabitants of the contracting nations, such as commerce, boundaries, claims of citizens of one country against the government of another, the rights of a citizen of one country to acquire and hold property within the territory of another, the making and preservation of peace and the extradition of criminals.

While the President has the power of making a treaty, he does not personally conduct the negotiations with a foreign country, but appoints one or more persons, who meet with the representatives of the foreign power and discuss

the subject matter of the treaty, acting at all times under the direction of the President. In order to negotiate a treaty it is necessary that a single officer should have the power of representing the government, hence this power is given to the President. But treaties as well as the Constitution are the supreme law of the land, and a treaty has all the effect of a law in regulating the dealings of the citizens of the different countries with each other; therefore, the legislative branch of the government should be consulted in the making of laws of so much importance. Hence the Constitution provides that, before any treaty can become operative, it must receive the consent and approval of two-thirds of the Senators of the United States.

Ambassadors and Ministers.—With the advice and consent of the Senate the President appoints ambassadors and other public ministers and consuls, who represent the interests of our country at the capitals and principal cities of all the nations of the world. He also receives the ambassadors and public ministers from other countries who are accredited to our government. Every civilized nation sends a representative to each country with which it is on friendly terms, for the purpose of carrying on negotiations and protecting the interests of the nation and its people in the foreign land. This system is called the diplomatic service. The officers in the diplomatic service of our government are of four grades—*ambassadors*, who represent our country at the most important capitals, such as those of England, France, Germany, Mexico and Russia; *envoys extraordinary and ministers plenipotentiary*, who are sent to those countries which are not represented at our capital by ambassadors; *ministers resident*, who are officers of a lower rank than the two preceding and are our representatives at the capitals of second-rate powers; and *chargés*

d'affaires, who are accredited to those countries with which we have but few relations.

Consuls. — Consuls are officers of a different class, appointed by the President. They are not diplomatic agents of the government, but may properly be called its commercial agents, whose duty it is to protect our commercial interests in foreign countries and our vessels, seamen and citizens and their property in foreign ports. They are of three grades—consuls-general, consuls and consular agents—the classification being based upon the relative importance of the places at which they are stationed. A consul must receive from the government of the country in which he is located a document granting him permission to enter upon his duties. This document is called an *exequatur*, and in our country it is issued to foreign consuls through the office of the Secretary of State.

Consuls have many duties to perform, among which may be mentioned—taking care of destitute American sailors, certifying shipments of merchandise, examining emigrants, certifying the proper execution of legal documents and furnishing to their own government monthly reports upon matters of commercial or political interest.

Power of Appointment.— The Constitution also gives to the President the power of appointing all other officers of the United States except those whose selection is regulated by the Constitution, but reserves to Congress the right of determining whether or not the appointment of inferior officers shall be made by the President alone, by the courts of law or by the heads of departments. In the exercise of his power the President appoints a vast number of officers, such as judges of the different United States courts and other officers connected with the administration of justice, district attorneys, marshals and commissioners of various

kinds, the members of his Cabinet and heads of departments, collectors of customs and of internal revenue, the postmasters in large cities, officers of the army and navy, governors and judges for the territories and surveyors of public lands. It would require a volume by itself to explain in detail the duties of all of the officers appointed by the President, and therefore, except in the case of the more important, the work of obtaining information on these matters must be left for your own investigation.

Messages.— The remaining duties of the President will not be given special attention, with the exception of the requirement that he shall, from time to time, give to Congress information of the state of the Union and recommend to its consideration such measures as he shall judge necessary and expedient. This is an important official duty, because, owing to the close attention which the President is obliged to give to the affairs of the nation at all times, he is better informed as to what legislation is necessary and should be enacted than the members of Congress, who, during the interim between the sessions of that body, are largely concerned with their own private affairs.

In fulfilling this duty the first two Presidents opened the sessions of Congress with an address delivered in person to both Houses, but after the lapse of a few years this practice was criticised as being an imitation of the address made by the King of Great Britain at the opening of Parliament; therefore it was abandoned during the administration of Thomas Jefferson, who inaugurated the custom of sending a written message to Congress to be read to both Houses at the opening of the session.

It is usual for the President to review in his message, in general terms, such important matters connected with the administration of the government as he deems it proper to

mention and to recommend such legislation as he thinks the necessities of the country demand. The acceptance or rejection of such recommendations depends largely upon the confidence which the members of Congress have in the President, and it frequently happens that his communication is practically ignored when a majority of the members of Congress belong to the opposite political party.

His Responsibility.— It is the duty of the President to convene special sessions of Congress when extraordinary occasions may require, and to adjourn such sessions to any time which he may think proper. The responsibility for the faithful execution of all of the laws of the United States devolves upon the President, and therefore he is held accountable for the negligence and mistakes of officers appointed by him, although he personally may have had no connection with their acts.

IMPEACHMENT.

The President, Vice-President and all civil officers of the United States can be removed from office only by impeachment for and conviction of treason, bribery or other high crimes and misdemeanors. The civil officers of the United States who are subject to removal from office by impeachment are all executive and judicial officers of the government, except officers of the army and navy. This does not include members of Congress nor officers of the State government, who are liable to impeachment by the State legislature for malfeasance in office. Officers of the army and navy who have been guilty of misconduct are tried and punished by a tribunal called a court-martial, which is composed of military or naval officers.

Definition.— The words impeachment and conviction are used in the Constitution, and it is necessary to understand

the difference in these words, since they are sometimes used improperly as being identical in meaning. An impeachment means a formal charge or accusation against an officer, and, except for the importance of the offense and the serious nature of the charge, impeachment is in no way different from any other form of legal accusation, as a complaint or indictment. Conviction means the judgment by which the person impeached is found guilty.

Procedure.—The process by which a civil officer of the United States Government is impeached and the trial of the charges against him must be commenced by the House of Representatives, which, under the Constitution, has the sole power of impeachment. The first step in the proceeding is a resolution adopted by the House of Representatives, in which the person to be impeached and the office held by him and the offense of which he has been guilty are set forth in detail. Then a committee of the House of Representatives is appointed, whose duty it is to make a formal demand before the Senate of the United States that the accused be summoned to answer the charges against him and required to appear before the Senate for trial. Then a committee of the House of Representatives is appointed to prepare the formal charges in writing against the officer, these charges being called Articles of Impeachment. Another committee of the House of Representatives is also appointed to act as prosecutors in the trial on behalf of the House of Representatives, which is the accusing body.

The Senate is required by the Constitution to act as a court for the trial of cases of impeachment, and when so acting the members must take an oath as a jury does when hearing cases between private individuals. When the President of the United States is under trial on articles of impeachment, the Chief Justice of the United States Supreme

Court acts as the presiding officer of the Senate. This provision was probably made for the reason that the Vice-President in such a case might be regarded as an interested party, since in case of the conviction of the President the honor and dignity of the presidential office would fall to him.

The proceedings upon the trial of an officer under articles of impeachment are similar to those of a court of justice, and after the evidence has been heard and the arguments of counsel have been made, each Senator is required to vote upon the question of whether the accused is guilty or not guilty of each specific charge made in the articles of impeachment. In case of a conviction in impeachment proceedings, the Constitution requires that the guilty officer be removed from his position and disqualified forever from holding any office of honor, trust or profit, under the United States Government. After a conviction has been had in impeachment proceedings, if the officer has been guilty of offenses which are punishable by law he may be again tried and punished in an ordinary court of justice, the same as a private person.

CHAPTER IX.

BRANCHES OF EXECUTIVE DEPARTMENT.

One of the chief functions of government is to enforce the laws uniformly throughout the entire country. This is performed by the executive branch, of which the President is the head, thus giving him the title of Chief Executive, by which he is sometimes designated. For administering the affairs of government the executive branch is divided into nine departments, called the Departments of State, Treasury, War, Navy, Interior, Postoffice, Justice, Agriculture and Labor. The Constitution mentions executive departments in only a few instances, but these allusions show that the framers of that instrument contemplated the creation of these departments as necessity might require. It will be our aim to learn something in this chapter of the manner in which the work of administering the laws is divided among these nine subordinate branches and to understand the systematic way in which the various duties have been subdivided so that each officer, from the head of a department down to its humblest clerk, has his individual sphere of action perfectly defined.

The Cabinet.—The head of each department, except Post Office, Justice and Labor, is called the Secretary of the Department. The head of the Post Office Department is called the Postmaster-General; of the Department of Justice, the Attorney-General; and of the Department of Labor, the Commissioner of Labor. The Secretaries of State,

Treasury, War, Navy, Interior and Agriculture, together with the Postmaster-General and Attorney-General, constitute the President's Cabinet. This is an advisory body, which holds regular meetings to give the President information concerning the several departments and to recommend the methods to be employed in dealing with the numerous questions constantly arising in the governmental affairs of our wealthy and populous nation. The existence of the President's Cabinet is due rather to custom and necessity than to any provision of the Constitution or any law of Congress. While all of the offices held by members of the Cabinet have been created by laws of Congress, these laws make no provision for the association of the heads of the departments as a Cabinet. Therefore, as a body the Cabinet has no powers and duties except to advise and assist the President.

Subordinate Officers.—Several of the departments have one or more assistant secretaries, the number of assistants being dependent upon the volume of business transacted by the department. Each of the departments is divided into bureaus, the heads of which are called Commissioners; the bureaus are divided into divisions; the head of each division is called the Chief; the clerical force of each division is assigned to various rooms under the charge of Chief Clerks. Each person employed in the departments has his specific duties to perform and each is responsible to his immediately superior officer.

The Appointing Power.—The power of appointing these officers is vested by the Constitution in the President, unless Congress provides for their appointment by the heads of the departments or otherwise, and speaking generally, all of these officers are appointed by the President or the heads of the different executive departments.

This power of appointment to office is a matter of such vital interest to the citizens of our country that every one should know the manner in which it is exercised. In the early days of the republic civil officers who were honest and competent retained their positions through successive administrations, but even then the temptation to fill the offices with political friends caused some of the early Presidents to swerve from the strict line of duty. History records that President John Adams spent the last hours of his term of office in making appointments to important public positions, in order to forestall the action of Mr. Jefferson, who was to succeed him in a few hours. So zealous was he to complete the work that when the clock struck the hour which ended his term of office he was still at his desk, signing commissions as rapidly as they could be placed before him.*

When Andrew Jackson became President in 1828 he at once removed a large number of clerks and subordinate officers and appointed in their places persons belonging to his own political party, and with a zeal worthy of a better cause his example has been faithfully imitated as far as possible by nearly every President who has succeeded him.

This practice of regarding positions in the civil service of the government as the legitimate rewards of the party successful at the polls became subversive of good government, because the inevitable tendency was to repay an active political worker for his labors by appointing him to an important public office instead of making honesty and competency the sole qualifications. After many years of discussion and agitation, Congress enacted the Civil Service Law, which requires that appointments to public office shall be based upon merit alone and that they shall not be distributed as rewards for political services.

*Morse's *Life of Jefferson*.

The Civil Service Law.—This law was enacted in the year 1883. It provides that the President shall appoint three commissioners, no more than two of whom shall belong to the same political party. They are called Civil Service Commissioners, and it is their duty to carry into effect the provisions of the Civil Service Law. Therefore, they are executive officers.

This law requires the commissioners to hold suitable examinations for testing the qualifications of applicants for positions in the various branches of the public service, and compels the officer who is given the power of appointment to make his selections from lists of those persons who have passed the required examinations. The law also protects employees of the government who have been appointed in this way, by forbidding their removal from office except for good cause.

A very large proportion of the subordinate executive officers of the government are subject to the provisions of this law, but the right to appoint heads of departments and many other officers filling positions of great importance still remains vested in the President.

Department of State.—The first Congress which met after the adoption of the present Constitution created the Department of State by a law enacted on January 27, 1789. The head of this department is the Secretary of State, who ranks first among the members of the Cabinet. He is sometimes called the prime minister, or *premier*, names borrowed from the English governmental vocabulary, which cannot properly be applied to the Secretary of State, for the reason that his duties have but little in common with those of the English prime minister.

The Secretary of State is the minister of foreign affairs, and has charge of all correspondence and negotiations

with the representatives of foreign governments. He is the head of our diplomatic and consular service, and gives instructions to our ambassadors, ministers and consuls. It is his duty to keep in his custody all treaties with foreign countries, as well as the laws and resolutions of Congress and the proclamations of the President. He is the keeper of the great seal of the United States and attaches it to all documents which are required to be authenticated in that way, as presidential proclamations, official commissions and requisitions for the extradition of fugitives from justice. He publishes all of the laws and resolutions of Congress and is required to report to that body from time to time, giving such information as may be needed concerning the business of his department. There are also several Assistant Secretaries of State.

The department is divided into seven bureaus, the most important of which are the diplomatic and consular, which have been sufficiently described in the preceding chapter.

The Treasury.—The Treasury Department also was created by the first Congress of the United States by law enacted on September 2, 1789. The Secretary of the Treasury ranks next to the Secretary of State, and his duties are of the highest importance. He has entire charge and control of the financial affairs of the government, and practically all legislative acts upon monetary questions are based upon his recommendations. It is his duty each year to give to Congress such information and advice as will enable that body to act intelligently in making provisions for the collection of a revenue sufficient to meet the expenses of government and protect the credit of the United States.

He must superintend the collection of duties and internal revenue taxes, the coinage of money, the engraving of the different kinds of paper money in use; the engraving of

bonds issued by the government and the payment of all obligations on the part of the government. He has charge of the Life-Saving Service, the inspection of steam vessels, the system of lighthouses, the marine hospitals and the erection of public buildings.

The business of the Treasury Department, as indicated by its disbursements alone, is so enormous as to be almost beyond comprehension. During its existence it has paid out many billions of dollars and its transactions have always been so conducted as to furnish a just reason for national pride.

The department is divided into a large number of divisions under the charge of chief officers, who are in immediate control of a great number of subordinates, not only in Washington, but in all parts of the country and in every place under the jurisdiction of the United States. So numerous are these officers that we can refer to only a few of them.

The Treasurer of the United States receives and disburses all of the moneys of the government. He has charge of the entire treasury system, including the national treasury at Washington and the sub-treasuries which have been established in the various large cities of the country for convenience in receiving and disbursing the money of the government.

The Register of the Treasury has charge of the book-keeping and accounts of the government. The auditors examine and pass upon the accounts and expenses of the various branches of the government. The national banking system is under the supervision of the Comptroller of the Currency. The Commissioner of Customs superintends the government custom houses and the collection of duties.

Other important officers of the Treasury Department

are the Commissioner of Internal Revenue, Chief of the Bureau of Statistics, Superintendent of the Bureau of Printing and Engraving, Director of the Mint, Superintendent of the Life-Saving Service, Solicitor of the Treasury, Supervising Architect and Commissioner of Navigation.

War Department—The third executive department, created by the first Congress is the War Department, which originated with an act of Congress passed in August, 1789. During Washington's administration the heads of the three departments of State, Treasury and War constituted the President's cabinet, and during that period the naval affairs were under the charge of the War Department.

The War Department has control of the military affairs of the nation, and it also acts as a department of public works. In the latter capacity it superintends the construction of harbors, bridges, docks and breakwaters, and oversees the work of improving rivers and harbors, making them more suitable for navigation and expending therefor a large sum of money annually. This department has contributed greatly toward the advancement of education and science by conducting all of the exploring expeditions sent out by the government.

Its Bureaus.—The Department of War, like the other executive departments, is divided into bureaus, the heads of which are officers of the United States Army. The most important of these officers are the Adjutant-General, who conducts the correspondence relating to the business of the department, issues orders to the commanders of the various divisions of the army and receives the reports of officers actually engaged in military duty; the Inspector-General, who inspects the condition of the army at all places where any part of it may be located, and examines

the arms and general equipment of the soldiers, as well as the accounts of money spent on the maintenance of the forces; the Quartermaster-General, who has control of the clothing and general army supplies; the Commissary-General, who superintends the purchase and distribution of food supplies for the army; the Surgeon-General, who is the chief medical and surgical officer and superintends the work of the numerous surgeons attached to the different military commands; the Chief of Engineers, under whose direction fortifications are constructed, bridges and docks are built, and harbors improved; the Judge Advocate General, the chief legal officer, who reviews all proceedings by court-martial and acts as the legal adviser of the department; the Chief Signal Officer, whose subordinates do the work of sending messages by means of the heliograph and other systems of signals, as well as constructing telegraph lines when the army is actively operating in the field.

The Army.—At the present time the regular army of the United States consists of about 65,000 men, in all branches of the service, commanded by the Lieutenant-General, who is Commander-in-Chief. In time of war the army is greatly increased in officers and men, but, as its numbers depend in such cases wholly upon the magnitude of the conflict, it follows that no general statement as to the size and organization of the army upon a war footing can be given which will be true in all cases.

Navy Department.—The Navy Department was established April 30, 1798. The business of the department is distributed among eight bureaus, the heads of which are officers of the United States Navy. These bureaus are Yards and Docks, Equipment and Recruiting, Navigation, Ordnance, Construction and Repair, Steam Engineering,

Provisions and Clothing, Medicine and Surgery. The general character of the duties performed by these bureaus is sufficiently indicated by their names, therefore no detailed explanation need be given.

This department has charge of the Naval Academy at Annapolis and of the Naval Observatory at Washington. As a part of the work of the Navigation Bureau, it issues nautical charts, maps and books for the use of navigators. It also publishes a nautical almanac for the guidance of sailors.

Interior.—It was not until the year 1849 that the Interior Department was created to assume control of various matters connected with the internal affairs of the country which did not come within the sphere of any of the departments existing at that time. The heads of the bureaus into which this department is divided are called Commissioners, except in two cases, in which they are designated as Superintendents.

General Land Office.—The Commissioner of the General Land Office has charge of all matters relating to the management and disposal, by sale or otherwise, of the public lands of the United States. The importance of the transactions which have taken place through the medium of this bureau will be apparent when we consider that about two thirds of the entire area of the country has been public land, the title to which was originally vested in the United States.

In the Revolutionary days there were but six of the original thirteen colonies whose boundaries were established and defined beyond question. These were New Hampshire, Rhode Island, Maryland, Pennsylvania, New Jersey and Delaware, while the others claimed land extending westward to an indefinite limit, even in some cases to the Pacific

Ocean. The question of the disposition of these lands was one of the obstacles which delayed the formation of the Union, as those States which had no lands were exceedingly jealous of the claims of the others; but the dispute was finally settled by the agreement that all of these lands should be ceded to the United States Government.

In addition to the vast western territory, the title to which was acquired by cession from the States, the national government obtained enormous tracts by the purchase of Florida from Spain, of Louisiana from France and of Alaska from Russia, and by still other additions made as the result of the war with Mexico.

All of this enormous territory has been under the control of the Commissioner of the General Land Office, and nearly all of it has been transferred to private ownership by that officer, acting under the direction of Congress. To accomplish the distribution of this land among individuals, the government has resorted to a variety of expedients. It has donated to each State which has been created in this territory one section of land in each township for the support of the common schools, and has liberally endowed State universities and agricultural colleges in these States by setting apart large areas of public lands for the support of these institutions.

Bounties of public lands have been given to the soldiers and sailors of the United States for their support when they have been honorably discharged from service, and extensive grants have been made to States to enable them to build roads and canals; still other donations have been made to railroad companies for the purpose of aiding in the construction of railroads necessary for the development of the country.

Many thousands of acres of the public lands of the United States have been sold for cash, and from this source the government has received several hundred millions of dollars. In other cases, lands aggregating thousands of acres have been donated to settlers upon their compliance with certain laws, which require persons receiving such grants to settle upon and improve the land.

Pensions.—The Pension Bureau has charge of the granting and payment of pensions to soldiers and sailors of the United States who have suffered injury or contracted disease while serving in its army or navy. A similar provision is also made for the support of the widows and families of soldiers and sailors. The government expends annually in the payment of pensions more than \$100,000,000 and the work of distributing this vast sum is performed under the direction of the Commissioner of Pensions, at the various pension agencies which have been established in different parts of the country.

Other Offices.—Other heads of bureaus of the Interior Department are the Commissioner of Patents, who superintends the granting of patents to inventors; the Commissioner of Indian Affairs, who has control of the support, government and education of the Indians now living within our borders, the Indians being regarded as wards of the government; the Commissioner of Railroads, who looks after the interest which the government has in several of the Pacific railroad companies, the government having aided in the construction of these railroads by grants of land and the loan of credit and money, which must be repaid by the companies; and the Superintendent of the Census, who has charge of taking the census, which the Constitution requires shall be taken every ten years. Two other important bureaus are those of Education and of Geological Survey, the

former of which collects and distributes information upon educational matters, and the latter investigates the geological and mineralogical features of the different parts of the country and publishes reports giving the results of its investigations.

The Post Office Department.—Every one is more or less familiar with the workings of this department, for the reason that every citizen avails himself of its benefits in the transaction of his daily business. This department was established in 1789, but the Postmaster-General did not become a member of the Cabinet until President Jackson's administration in 1829.

He has charge and control of the mail service of the government, which provides for the transmission of letters, newspapers, periodicals and small packages to all parts of the world, and has power to award contracts to railroad and steamship lines to do this work. He also establishes postoffices and appoints postmasters in places, where the salary paid does not exceed \$1,000 per year. In other places the postmasters are appointed by the President and confirmed by the Senate.

Justice.—The Department of Justice has been represented in the federal government ever since the year 1789, when the office of Attorney-General was created, but this officer did not become a member of the Cabinet until the year 1870.

The Attorney-General is the chief legal officer of the government. He advises the President upon all legal matters concerning which his opinion is sought; controls and manages, on behalf of the government, all litigation in which the United States is interested, and directs Marshals; District Attorneys and other law officers of the government in the performance of their duties.

Subordinate to him are several assistant attorneys-general, one of whom is detailed for service in the Interior Department and another for service in the Postoffice Department; also a Solicitor of the Treasury, who attends to some of the legal affairs of that department; a Solicitor of the Internal Revenue, and an Examiner of Claims. The office of Attorney-General is one of the most important in the entire government, and it has been filled by some of the most eminent lawyers and statesmen of our country, among whom may be mentioned Theophilus Parsons, William Pinckney, Roger B. Taney, Caleb Cushing, Edwin M. Stanton and William M. Evarts.

Agriculture.—The Department of Agriculture is of comparatively recent creation. It was organized in the year 1862, and in 1889 the Secretary of Agriculture became a member of the Cabinet. The particular duty of this department is to take all necessary steps for promoting the agricultural interests of the country, which constitute the larger portion of the wealth of our people. To this end it maintains numerous bureaus for investigating the habits of insects and birds that injure the crops and determines the best method for the farmer to employ in order to protect himself from these pests.

It studies the various diseases with which cattle and horses are afflicted, and ascertains the causes and best methods of treating these evils, and protects the public from the sale of diseased meat, sometimes causing whole herds of cattle to be slaughtered in order to prevent the spread of contagious diseases.

The department also conducts numerous agricultural experiments, such as raising silk worms, growing sorghum and beets for the manufacture of sugar, and testing seeds,

so that the best varieties may be distributed among the farmers.

Weather Bureau.—The Weather Bureau, since the year 1891, has been a branch of this department. This bureau maintains several hundred stations located in various parts of the country, where meteorological observations are made daily, and upon them are based predictions as to the state of the weather for the ensuing twenty-four hours. The work of this bureau is exceedingly useful to the people, because thereby notice is given of the approach of storms likely to be dangerous to vessels and likely to affect important commercial and agricultural interests.

Labor.—The Department of Labor became a separate department in the year 1888, having been, prior to that time, a bureau of the Interior Department. The duties of this department are solely to collect facts and statistics upon industrial questions, such as wages, strikes, convict labor and industrial depressions; therefore, it is not necessary to speak in detail of its workings.

Other Executive Officers.—This completes the list of the important branches of the executive department. There are several others, such as the Inter-State Commerce Commission, the Civil Service Commission and the Office of the Librarian of Congress, whose duties have been described elsewhere, and still others, such as the Fish Commission, which makes scientific observations concerning the habits of fishes, their foods and the methods of capturing them, and also propagates and distributes to all parts of the country such fishes as are suitable for food, and the Government Printing Office, which prints the numerous reports of the different branches of the government and publishes the proceedings of Congress. The head of this office is appointed by the President and is called the Government Printer.

After this brief survey of the branches of the executive department and the enormous amount of business transacted through them, the conclusion is readily reached that so far as the masses of the people are concerned, this department, more than any of the others, represents the power of the government and the practical results of its workings. All of these departments are centralized in the President, who is directly responsible to the people for the manner in which he discharges the trusts imposed upon him.

CHAPTER X.

THE FEDERAL JUDICIARY.

The history of our civil institutions has no more interesting and instructive part than that which relates to the origin, growth and development of our judicial system and its influence in shaping the destinies of our country.

These judicial records contain accounts of the action and conduct of men individually and of social and political organizations under varying conditions. Sometimes the controversies arise from avarice and ambitious rivalry, sometimes prompted by the competition of trade, and at other times they emanate from political contentions involving discussions of principles of statecraft and international regulations of universal application.

In ancient and mediæval times, the courts of law were instruments of oppression and injustice quite as frequently as they were a protection to the rights of individuals, but in the judicial system of the United States we find that the framers of the Constitution secured results which had before that time existed only in the theoretical and speculative writings of philosophers.

By the creation of the Supreme Court there was effected a practically complete separation of the legislative, executive and judicial departments of the government, a condition to which we have now become so accustomed, as to

render it difficult for us to realize to what extent the few paragraphs of the Constitution producing this result have excited the admiration of political and philosophical students.*

The Supreme Court.—So much has been written in praise of this institution of our government that it is difficult to find language which will exceed in the extravagance of its terms the utterances of distinguished writers in Europe and America upon this subject. In speaking of the Supreme Court of the United States, it has been said:

"No product of government, either here or elsewhere, has ever approached it in grandeur. Within its appropriate sphere it is absolute in authority. From its mandates there is no appeal. Its decree is law. In dignity and moral influence it outranks all other judicial tribunals of the world. No court of either ancient or modern times was ever invested with such high prerogatives. Its jurisdiction extends over sovereign States, as well as the humblest individual. It is armed with the right, as well as the power, to annul in effect the statutes of a State whenever they are directed against the civil rights, the contracts, the currency or the intercourse of the people.

"Secure in the tenure of its judges from the influence of politics and the violence of prejudice and passion, it presents an example of judicial independence unattainable in any of the States and far beyond that of the highest court in England. Its judges are the sworn ministers of the Constitution and are the High Priests of Justice. Acknowledging no superior, and responsible to their consciences alone, they owe allegiance to the Constitution and to their own exalted sense of duty. No institution of

*See Bryce's *American Commonwealth*, Vol. I, Chap. 23.

purely human contrivance presents so many features calculated to inspire both veneration and awe.”*

Notwithstanding what has been said as to the marvellous wisdom displayed by the framers of the Constitution in their creation of this system, it would be a mistake to suppose that they were guided solely by their own original ideas upon the subject. Their wisdom was displayed by the fortunate and harmonious manner in which they took advantage of all that was best in the judicial systems of the colonies and adopted every precaution necessary to protect the dignity and independence of the court.

The Judicial System.—The judicial power is vested in one Supreme Court and in such inferior courts as Congress may, from time to time, establish. Under the power thus given to establish courts, Congress has created the Circuit Court of Appeals, the Circuit Court and the District Court, which, speaking generally, comprise the judicial system of the United States, but in addition to these there are also the Court of Claims, the Supreme Court of the District of Columbia and the Territorial Courts, each of which will be described in its proper place.

That judges may be secure in their tenure of office and free from all influences which would tend to hinder them in the impartial discharge of their duties, it is provided that they shall hold their office during good behavior. This means that an appointment to the position of Judge of any of the United States courts is for life, provided the incumbent properly performs the duties of his office. He can be removed from office by impeachment proceedings only. The Constitution also provides that the judges shall receive

*Carson's History of the Supreme Court of the United States.

for their services a compensation which shall not be diminished during their continuance in office. Thus it appears that these two provisions place a judge of a Federal Court in an absolutely independent position, the first giving him practically a life tenure in office, and the second guaranteeing him an income which cannot be diminished.

The Federal Courts deal only with cases coming within the scope of the enumeration contained in the second section of the third article of the Constitution, and these courts must not be confused with the courts which form a part of the government of each of the States, in which the ordinary disputes between citizens are settled.

Jurisdiction.—Briefly stated, the courts of the United States have jurisdiction of the following classes of cases:

1. All cases arising under the Constitution, laws and treaties of the United States.

2. All cases affecting ambassadors, public ministers and consuls.

3. All cases of admiralty and maritime jurisdiction.

4. Controversies to which the United States shall be a party.

5. Controversies between two or more States and between a State and the citizens of another State and between citizens of different States.*

6. Controversies between citizens of the same State claiming lands under grants of different States.

7. Controversies between a State, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls and those in which a State shall be a party,

*The judicial power of the United States, although expressly extended to cases between a State and citizens of another State, has been modified by reason of the 11th amendment to the Constitution. See page 105,

the Supreme Court has *original* jurisdiction, by which is meant that such cases may be commenced in the Supreme Court. In all other cases, the action must be commenced in the lower courts, and the decision of the Supreme Court upon the question involved can be obtained only by appealing from the decision of the inferior court; therefore, in these cases, the Supreme Court has *appellate* jurisdiction only.

Criminal Cases.—Another paragraph of the third article of the Constitution provides that the trial of all criminal cases, except in cases of impeachment, shall be by jury, and that such trial shall be held in the State where the crime has been committed. This clause of the Constitution was designed for the protection of citizens in two particulars. It secured for all time the right of trial by jury in all criminal cases, a right which had often been withheld in former years by tyrannical kings of Great Britain and which the people of this country had come to prize most highly. It means simply that no one can be convicted of any crime unless he is found guilty by a jury composed of his fellow-citizens, who are selected in the manner required by law, and all of whom must be absolutely unprejudiced toward the accused before entering upon the trial.

This paragraph of the Constitution also protects the citizen who is accused of committing a crime from the injustice of being sent for trial to a distant place, where he may be unknown and friendless, and therefore deprived of the benefit of his previous good reputation in his own neighborhood, and where he will be involved in additional expense and trouble in making his defense.

Organization of the Supreme Court.—The Supreme Court of the United States was organized pursuant to a law enacted by Congress in the year 1789, known as

the Judiciary Act, and at first was composed of one Chief Justice and five Associate Justices. Since that time changes have been made in the organization of the court as necessity has required, and it is now composed of one Chief Justice and eight Associate Justices. All of these judges are appointed by the President, and, with good behavior, hold their respective offices for life; they can be removed by impeachment proceedings only. The court holds daily sessions, Saturdays and Sundays excepted, in the capitol building at Washington, commencing in October of each year and continuing until the month of May, when it adjourns until the ensuing October.

During the first years of its existence, the Supreme Court had but little work to do, and for many years not more than twenty-five cases were pending before it in each year; but within the last half century the business of the court has increased enormously. At the present time it disposes of several hundred cases annually. The Supreme Court stands at the head of the judicial system, and its decisions are final.

District Courts.—A systematic explanation of the Federal judicial system requires that we next consider the District Courts, which form the lowest grade. To secure the administration of justice, the United States is divided into judicial districts, of which there are seventy-four at the present time, but this number is subject to change as Congress may think proper. In some cases the boundaries of a judicial district are identical with those of a State; in other cases, a State is divided into two or three districts. For example, Illinois is divided into two districts, while Maine constitutes a district by itself. In each of these districts a court is established and a judge appointed to preside over the same.

The jurisdiction of the District Courts includes crimes

committed upon the high seas, all suits brought by officers of the United States, causes of action arising under the postal laws, all civil cases of admiralty and maritime jurisdiction, suits brought by aliens for damages in violation of treaties or international laws, bankruptcy matters and a variety of other cases.

Circuit Courts. — The next step in the formation of the judicial system is the grouping of these districts into nine circuits, the number being identical with the number of Supreme Court Judges. In each circuit a court, called the Circuit Court, is established, and a Circuit Judge is appointed. For the purpose of holding this court, a justice of the Supreme Court is designated for each of these circuits, and he is required by law to visit his circuit at certain intervals. The Circuit Court may be held by the judge of the Circuit Court, by a justice of the Supreme Court, by the judge of any District Court in the circuit, or by any two of them, or by all of them together.

The Circuit Courts have jurisdiction over all cases where the amount in dispute exceeds \$500 and the parties to the controversy are citizens of different States, all suits arising under the patent and copyright laws, certain cases arising under the revenue law, and over many of the subjects which are within the jurisdiction of the District Courts. A complete enumeration of the matters over which Circuit Courts of the United States have jurisdiction would be of little interest or use to beginners in the study of government; therefore, it will not be attempted.

Circuit Court of Appeals.—The Circuit Court of Appeals was created by act of Congress in 1891, for the purpose of relieving the Supreme Court from the work of considering appeals from the District and Circuit Courts in all cases except those in which the jurisdiction of the court

is in issue, final sentences and decrees in prize cases, convictions of capital and otherwise infamous crimes, cases involving constitutional questions and cases in which the construction of a treaty is involved. In all other cases appeals from the District and Circuit Courts must be taken to the Circuit Court of Appeals.

The law creating this court also provides for the appointment of an additional judge in each of the circuits having the same power as Circuit judges of the United States, and receiving the same salary. This additional appointment is necessary in order to enable the Court of Appeals to properly perform its work without taking the time of the Circuit and District judges from the performance of their duties, as already defined by law.

The Circuit Court of Appeals consists of three judges and the justice of the Supreme Court assigned to each circuit. The Circuit judges within the circuit and the several District judges within the circuit are all competent to sit as judges of the Circuit Court of Appeals. A session of this court is held annually in the principal city of each district.

Other Courts.—The government of the District of Columbia is under the control of Congress, and, to administer justice in this District, Congress has created a Supreme Court, which has jurisdiction of all crimes and offenses committed within the District, of all civil cases between parties, both or either of whom shall be a resident or found within the District, of all actions of a civil nature, of all seizures on land or water, and of all penalties or forfeitures made, arising or accruing under the laws of the United States.

Congress has also created Territorial Courts, which exercise a general jurisdiction over civil and criminal matters in the several Territories. The judges of these courts are appointed by the President, and, generally speaking, per-

form duties similar to those of the judges of the various state courts.

Besides the courts of justice which have already been described, there is a Court of Claims at Washington, whose duty it is to examine claims against the government for the payment of money in cases where there is a dispute. The creation of this court was a necessity, because no suit can be brought against the United States in any ordinary court. Nevertheless, there are numerous cases continually arising where justice requires that the claims of creditors of the government should be adjudicated and determined according to the rules of law, and to make suitable provision for this class of cases, the Court of Claims has been created.

CHAPTER XI.

AMENDMENTS TO THE CONSTITUTION.

One of the fundamental principles of a democratic form of government, as enunciated by the Declaration of Independence, is the right of the people, who are the source of all power, to alter the governmental requirements whenever it is necessary to do so, in order to accomplish more perfectly the objects for which the government exists. The Declaration of Independence also sets forth the right of the people to abolish a government which fails to protect its subjects in the enjoyment of their rights of life, liberty and the pursuit of happiness. It was because the English government was destructive of these ends, that our forefathers determined to institute a new government, laying its foundations upon principles which tend to protect the rights and ensure the safety and happiness of the people.

How the Constitution May Be Amended.—The right of the people of the United States to alter the form of their government is secured to them by the provisions of the Constitution relating to the amendment of that instrument. Amendments to the Constitution may be proposed by Congress whenever two-thirds of both Houses shall deem it advisable, or by a convention called for the purpose of proposing amendments. It is the duty of Congress to call such convention on the application of the legislatures of two thirds of the several States. Each amendment thus far

made to the Constitution has been proposed by the first method.

After an amendment has been proposed, it must be submitted for approval to the legislatures of the several States, or to conventions to be called in each State, according as one or the other mode of ratification may be proposed by Congress. An amendment must be ratified by three fourths of the States before it can become a part of the Constitution. All amendments to the Constitution have been ratified by the first method, no convention ever having been called, either for proposing or ratifying amendments.

Two restrictions upon the power of amendment were imposed by the Constitution—one, owing to the final settlement of the controversy concerning slavery, is no longer a matter of interest; the other provides that no State without its consent shall be deprived of its equal suffrage in the Senate.*

Fifteen amendments to the Constitution have been made, although a larger number was considered during the period when the adoption of the Constitution was under discussion by the people of the several States.

First Ten Amendments.—The first ten amendments were proposed in Congress during its first session, and went into effect December 15, 1791. These amendments were adopted because the Constitution contained no Bill of Rights, such as is set forth in the constitutions of most of the States.**

A Bill of Rights may be defined as a declaratory statute setting forth certain inalienable rights of the people, in the enjoyment of which they are to be forever protected by the

*See Article V of Constitution.

**Bryce's *American Commonwealth*, Vol. I, page 27. Fiske's *Civil Government*, page 255.

government, and thereby placing well defined restrictions upon the powers of the government and its officers. The term was first applied to the statute enacted by the English Parliament in the year 1689, containing the conditions, under which the crown of England was offered to William and Mary, Prince and Princess of Orange, after the abdication and flight of King James II. These conditions were accepted, and ever since that time the Bill of Rights has formed a part of the constitution of Great Britain. It has exercised a most important influence upon the political institutions of England, because, since its enactment, every sovereign of England has been compelled to base his claim to the throne upon some act of Parliament, thus effectually disposing of claims to rulership by virtue of divine or hereditary rights.*

The first ten amendments correspond in their terms to some of the provisions of the Bill of Rights, just described, but it is generally conceded that the language of the amendments is more forcible and concise than that of the Bill of Rights. These amendments secure to the people the right of freedom of religion, of speech and of the press, the right to assemble and petition the government for a redress of grievances, and the right to keep and bear arms and to be secure in their persons, houses and property, from unreasonable arrests, searches and seizures. The quartering of troops in the houses of citizens in time of peace is forbidden. The right of trial by jury in criminal and civil cases is guaranteed, and in case of capital crimes, no person can be held answerable except on a presentment or indictment of a grand jury. A person cannot be put in jeopardy more than once for the same offense, and cannot be compelled to be a

*Green's History of the English People, Bk. VIII, Chap. III.

witness against himself in any criminal case. The taking of private property for public use without just compensation is prohibited, excessive bail cannot be demanded, and cruel and unusual punishment must not be inflicted.

The theory upon which our government is based is emphasized by the ninth amendment, which declares that still other rights are retained by the people, whether enumerated in the Constitution or not, and further by the tenth amendment, which reserves to the States or to the people all powers not expressly delegated by the Constitution to the general government nor prohibited by it to the States.

X **Eleventh Amendment.**—The eleventh amendment was proposed in Congress in 1794, but was not in force until January 8, 1798. The circumstances which led to the adoption of this amendment are worthy of notice, because its provisions place an important restriction upon the judicial power of the Federal Government* and enable a State to repudiate its debts if so disposed.

In the year 1793, a citizen of North Carolina brought a suit against the State of Georgia, relying upon Section 2 of Article III. of the Constitution, by which a controversy between a State and a citizen of another State is included within the judicial power of the United States. The court decided in favor of the citizen of North Carolina, but the decision caused so much dissatisfaction that the eleventh amendment was enacted so as to prevent a State from being sued against its will.**

Twelfth Amendment.—The twelfth amendment originated with Alexander Hamilton. It was proposed by Congress in 1803 and went into effect in 1804. This amend-

*See Sec. 2, Article III, of Constitution.

**This was the case of *Chisholm v. The State of Georgia*. 2 Dallas Reports, page 419.

ment modified the method of voting by the electors for President and Vice President.*

Originally the ballots of the electors did not designate the name of the person voted for as President and Vice President, respectively, but each elector wrote on his ballot the names of two persons, only one of whom could be a resident of the same State as the elector. The candidate having the largest number of votes, provided it was a majority of the whole number cast, was elected President, and the person having the next largest number was elected Vice President.

No inconvenience occurred in the use of this plan in the first two presidential elections, because Washington was the only candidate for President, and was the unanimous choice of the people for that office, but in 1796 the election was contested. John Adams was the candidate of the Federalists and Thomas Jefferson of the Anti-Federalists or Republicans.**

In those days the electors exercised some individual discretion and independence in voting and were not bound to vote for their party candidates to the same extent as at present. There were dissensions in the Federalist party, which prevented some of the electors chosen by that party from voting for Thomas Pinckney, their candidate for Vice President.*** As a result of these conditions, John Adams was chosen President, while his most bitter political opponent, Thomas Jefferson, was elected Vice President.****

At the next election in 1800 the defects of the system then in use were again apparent. Thomas Jefferson and Aaron

*See Constitution, Article II, Sec. 1, Par. 3.

**The Republican party of Jefferson's time must not be confused with the present party of that name. Jefferson is usually regarded as the founder of the present Democratic party. See Chapter XII.

***Morse's *Life of Jefferson*, page 173.

****The vote was: Adams, 71; Jefferson, 68; Pinckney, 59; Burr, 30, and the rest scattering.

Burr were the candidates of the Republicans for President and Vice President, and each received an equal number of votes. There being no election by the electors, it devolved upon the House of Representatives to choose a President. So ardently was Jefferson hated by his political opponents that plans were formed by them and intrigues developed to prevent his election to the presidency, which at one time threatened the peace of the country. The controversy was finally settled by the election of Jefferson, but to prevent the recurrence of these dangers the twelfth amendment to the Constitution was adopted.*

Thirteenth Amendment. — For the next sixty years no further amendment of the Constitution was found necessary, but with the close of the Civil War and the abolition of slavery in this country the necessity of embodying the results of that struggle in the supreme law of the land caused the adoption of the thirteenth amendment, whereby neither slavery nor involuntary servitude is permitted to exist in the United States or any place subject to its jurisdiction. This amendment was proposed by Congress in February, 1865, and was promptly ratified by the requisite number of States, so that it went into effect in December of the same year.

Fourteenth Amendment. — The fourteenth amendment was rendered necessary by the conditions which prevailed in the Southern States after the close of the Civil War, during what is known as the Reconstruction Period. During that period, these States enacted laws which almost had the effect of again reducing the negroes to slavery by imposing upon them harsh conditions, with which they must comply in order to live within these States, and inflicting upon them severe penalties for the violation of labor contracts. These

*Morse's Life of Jefferson, Chap. XII.

States also voted pensions to Confederate soldiers and their families, and filled important State offices with former officers of the Confederacy. Such acts as these displayed a temper and disposition toward the Federal Government which required governmental restraint.

Accordingly the fourteenth amendment was proposed by Congress June 16, 1866, and submitted to the States for ratification. The amendment is lengthy and only the substance of it can be stated. It was intended to protect the negroes in their rights of citizenship, and substantially defines what is meant by citizenship in the United States, and prohibits the States from abridging the rights of citizens. If the right to vote is denied to any qualified voter, a corresponding reduction is made in the State's representation in Congress, and certain classes of persons who had been leaders in the Confederacy are made ineligible to hold national or state offices, until their disability has been removed by a vote of two thirds of each House of Congress. This amendment also secured the validity of the public debt of the United States, and forbade the recognition of any debt or liability incurred in aid of the Rebellion.*

Tennessee was the only one of the seceding states which promptly ratified this amendment, and, as a consequence, the Southern States were placed under military rule until such time as they saw fit to comply with certain conditions, among which was the ratification of this amendment. The fourteenth amendment went into effect July 28, 1868, having been ratified by the requisite number of States, including all of the seceding States except Virginia, Mississippi and Texas. These three States were required to ratify the four-

*See Andrews' *History of the United States*—Vol. IV, pages 190-197—for an account of the causes which led to the adoption of these amendments.

teenth and fifteenth amendments before they could resume their place in the Federal Union.

Fifteenth Amendment.—The fifteenth amendment became operative March 30, 1870. It was designed to still further protect the negroes in exercising the right to vote, and needs no detailed explanation.

CHAPTER XII.

POLITICS IN A DEMOCRACY.

The word politics, in its broadest sense, means the science of government. It deals with the question of statecraft and the regulation of the public affairs of a nation, the preservation of its safety, peace and prosperity, the defense of its rights and territory from foreign control and conquest, and the increase of its own strength and resources. One who is well versed in this science is a politician in the highest sense of the word. The word politician, as just defined, is synonymous with that of statesman.

Both of these words have another and a narrower meaning. In the latter sense, politics means the management of a political party, the conduct of elections, the contests of parties relating to public questions and the selection and advancement of candidates for public office.

Viewing politics in this sense, the word politician means a man who is devoted to the advancement of himself and his associates in public office and who strives for the success of the political party to which he belongs.

Both words have still another signification, which is quite commonly attached to them, especially by persons who do not understand the real meaning of the terms. In a bad sense politics means the artful or dishonest management of public affairs with a view to securing the success of a particular candidate or party, regardless of the welfare of the nation or State. It signifies political trickery. In this case,

a politician means a man who makes it his principal business to be occupied with the management of political parties and who is ready to do anything which he believes to be for his own personal interest.

Citizens living under a popular form of government should be interested in politics and public questions, that an enlightened public opinion may be created and maintained which will correct the faults of government, guide the acts of public officers and counteract the evils which are likely to result from the dishonest or incompetent management of public affairs.

Discussion of political questions generally develops differences of opinion, even upon the simplest governmental propositions. This is followed by a union of those who think substantially alike upon questions at issue so as to secure the ascendancy of their ideas and the election to public office of candidates who will carry out a particular political policy. In this way political parties are created and organized with acknowledged leaders and governed by well-defined rules in every state, city and municipality throughout the country.

Political Parties and Their Origin.—Political parties are organizations of citizens, voluntarily formed in order to secure the success of particular candidates, and the triumph of certain party principles which are embodied in a statement called the *party platform*.

Since the formation of our government, differences of opinion have existed among citizens upon governmental questions. Consequently the formation of political parties commenced with the first session of Congress held after the adoption of the Constitution, and the discussion of questions of taxation developed the issue upon which citizens divided. We have seen that the failure of government under the

Articles of Confederation was due largely to the fact that the general government had no power to raise money by taxation. Accordingly, one of the first problems which presented itself to the new government was to devise a system of taxation which would secure sufficient revenue to meet the expenses of government, and at the same time would not prove too burdensome to an impoverished people.

Hamilton's Measures.—Alexander Hamilton was the first Secretary of the Treasury and upon him devolved the duty of solving the problem. The task was a delicate one, owing to the fact that many people had seriously opposed the adoption of the Constitution, because they feared that taxation under the Federal Government would be excessive and ruinous to citizens already overburdened with local taxes.

The methods of taxation introduced by Hamilton were substantially the same as those employed at the present time—namely, duties on imported goods and internal revenue taxes upon a few articles of domestic production, such as whisky and tobacco. The system of indirect taxation, by levying a duty on imported goods, excited no opposition on the part of the people, because it is a tax which is paid in the form of an enhanced price placed upon the imported goods. This method of taxation has been constantly in use as a means of raising a national revenue, solely because the people who pay the taxes do not realize that they are doing so, and consequently make no complaint of the burdens of taxation.

The system of internal revenue taxation devised by Hamilton provoked serious opposition from the outset, which culminated in the Whisky Rebellion in Western Pennsylvania. This insurrection was quelled by the Federal army,

and thereafter the opposition adopted the more reasonable methods of discussion to accomplish its objects.

The measures recommended to Congress by Alexander Hamilton covered a variety of subjects bearing upon the policy to be pursued by the new government, such as the raising and collection of revenue, estimates of the income and expenditures of the government, the regulation of the currency, navigation laws, the Post Office department and the public lands. Dealing more particularly with the financial policy of the government, he devised the system of taxation already mentioned, made an exhaustive report upon the public credit, wherein he prepared a plan for refunding and finally paying the entire indebtedness of the United States, as well as the debts contracted by the different States during the Revolutionary War.

Opposition to Hamilton's Policy.—The reports which Hamilton, in a comparatively short time, presented to Congress generally received the approval of that body, and, embodied in laws, formed a comprehensive system of public policy.* These measures were not adopted without serious discussion, which frequently developed bitter opposition, but this debate did not at first cause the formation of two well-defined and compact political parties, although such was the final result of the controversy.

During Washington's administration the leadership of those opposed to the measures advocated by Hamilton came to be centered in Thomas Jefferson, Secretary of State. It is difficult to say exactly when this took place, but the differences of opinion between these two statesmen began to be generally known in the winter of 1791-92.

Express and Implied Powers.—The opposition to the public policy of Hamilton was based chiefly upon the

*Lodge's Life of Hamilton, Chapter V.

argument that Congress did not have power under the Constitution to enact the measures which he recommended. The government of the United States possesses only those specific powers which are enumerated in the Constitution. When it is first proposed that the government shall exercise a particular power, the question is always raised as to whether or not the provisions of the Constitution will permit.

Thus, when Hamilton recommended the establishment of a national bank, his opponents urged that the power of establishing and maintaining such an institution was not granted to the government by the Constitution. The supporters of Hamilton met this argument by asserting that in addition to the powers expressly enumerated in the Constitution, the government has certain implied powers. In support of their contention, they cited the provision of the Constitution, which gives to Congress authority to make all laws necessary and proper for carrying into effect the powers delegated to the general government, which is sometimes called the *Elastic Clause* of the Constitution.

Federalists and Anti-Federalists.—The discussion between Hamilton and his opponents, led by Jefferson and Madison, resulted in the formation of two political parties, representing two theories as to the proper construction of the Constitution. One of these parties, of which Hamilton was the leading representative, favored a “loose” construction of the Constitution, giving to the government extensive implied powers. This was called the Federalist party. The members of the other party contended for a “strict” construction of the Constitution, allowing the general government to exercise only those powers which had been granted to it in specific terms. Jefferson was the acknowledged

leader of this party. At first it was called the Anti-Federalist party, but within a few years it assumed the name Republican.

Successive Party Names.—Since the days of Jefferson and Hamilton the American people have been divided into two great parties along practically the same lines, although the names of the parties have been changed from time to time. The party founded by Hamilton was called Federalist until 1828, when for four years it was designated as the National Republican. In 1832 it became known as the Whig party, a name which endured until 1854, when it began to be called the Republican party, the name which it bears to-day. The party of which Thomas Jefferson was the founder continued to use the name Republican until about 1828, and from that time to the present it has been called the Democratic party.

Each of these parties, when in power, has been more or less inconsistent in applying to actual governmental problems the fundamental principles on which their respective organizations were based, but the history of our country shows that for the most part the differences between them may be traced to the original controversy between Hamilton and Jefferson.

The study of the two great political parties of the present day is divided into two branches—the party organization and the nominating conventions.

Party Organization.—The control of party affairs is vested in different committees, the members of which are chosen by the party through its representatives assembled in convention. The most important committee is the National Committee, which is made up of one representative from each of the States and Territories. This committee represents the party in all national matters, attends to its inter-

ests in presidential and congressional elections and calls together the National Convention, designating the time and place for its meeting.

Each party also has a State Committee, which, in some States, is composed of a representative from each county, and in others of a representative from each congressional district. This committee has general control of the affairs of the party throughout the State and calls together the State Conventions.

In the same way, each party has a County Committee in every county. In every political division of the State, including cities, towns, villages, wards, congressional and legislative districts, there is a committee which looks after the interests of the party which it represents in all political matters within its jurisdiction.

Generally speaking, political committees are charged with the duty of promoting the interests of their respective parties at all elections. They must raise the money with which to pay necessary expenses, see that all voters belonging to the party are registered, so that they can vote on election day, arrange for meetings at which their candidates can address the public, print and distribute such literature as will be beneficial to the party and its candidates, and in every way promote the interests committed to their care.

Nominating Conventions.—All candidates for office are selected by nominating conventions, composed of delegates representing the different sections of the country, State, county, or city, as the case may be. For example, candidates for President and Vice President are nominated by the National Convention of each political party. A National Convention meets every four years. It is composed of delegates from all the States, each State sending twice as many delegates as it has representatives in the national Senate

and House of Representatives. The National Convention frames and adopts a declaration of party principles called the *party platform*, and elects the members of the National Committee for the ensuing four years.

State conventions meet as often as an election for state officers occurs. They are composed of delegates from the different counties of the State, the number of delegates from each county being dependent upon the number of votes cast for the party candidates at the last preceding general election. State conventions nominate candidates for State officers, adopt a party platform and provide for the election of a State Committee.

The same principles are applied in selecting the committees and holding the conventions in each of the political subdivisions into which the State is divided, so that throughout the entire country each party has a series of committees, each of which acts independently within its own territory, but which, taken together, constitute a complete and systematic organization.

Primaries.—Delegates to the National Convention are generally chosen by the State conventions of the respective States, but delegates to all other conventions are selected by the members of the party which they represent, assembled in a mass-meeting called a caucus, or at elections held in the various precincts or election districts. Such an election is called primary and, generally speaking, it is held in the manner and under the conditions imposed by the election laws of the various States.

By this method, every voter can participate in the election of delegates to the various nominating conventions and, through these delegates, has a voice in the election of candidates for every office within the gift of the people.

It is the duty of every good citizen, who is qualified to

vote, to take part in primary elections and thereby help to secure the nomination of worthy candidates.

It is the duty of every political party to make strenuous efforts to educate its members upon political subjects, to the end that they may comprehend the purpose and intent of the national and State Constitutions, as well as the spirit of the laws which give effect to their provisions.

END OF PART ONE.

PART II.

GOVERNMENT OF ILLINOIS.

CHAPTER XIII.

EARLY GOVERNMENT.

In our study of the civil institutions of the United States we have seen that, to know fully the history of their origin and growth, we must commence our investigation in remote periods of the past, long before the discovery of this continent, when men first began to realize that governments were but the creations of the people, and that all should participate in governmental affairs.

We have learned that the principles of representative government were first applied in the small German and Scandinavian communities of Northern Europe, that they were transplanted to England by the Anglo-Saxon invaders, and that after centuries of tyranny and misrule they came into full recognition as a result of the struggle between Henry III. and his barons under the leadership of Simon de Montfort, Earl of Leicester.

Several hundred years afterward, similar principles were brought into use in the cabin of the Mayflower, when the Pilgrim Fathers signed their names to the compact which formed the basis for the government of the struggling colony of Plymouth.

In the same manner, to understand the local govern-

mental institutions of the State of Illinois and to appreciate the theories upon which they are based, we must commence our study at a period long prior to the date of its first settlement and learn how these institutions came into use in other localities and, being found suitable for the government of a free and enlightened people, were transplanted from the older communities of New England and the South to the virgin prairies of our own State.

It must not be forgotten that the results of the centuries of struggle for popular government carried on by our Anglo-Saxon and English forefathers are quite as much the heritage of the citizens of Illinois as of those of Massachusetts or Virginia. Besides, all that has been said relating to the origin and development of the distinctive features of our government is directly applicable to the civil institutions of Illinois, as will become apparent when we consider how and by whom the State was settled and under what conditions its first governmental relations were framed.

Early Settlements.—The State of Illinois forms a part of the vast and indefinitely bounded territory which was claimed by England as a result of Cabot's voyage of discovery in 1498. The southern portion of its territory was included in the original grant of land from the British crown to the founders of the colony of Virginia, while still other portions were claimed by New York, Massachusetts and Connecticut.

The earliest settlements in the State were made by the French under the leadership of LaSalle, Marquette, Joliet and others, who explored almost the entire territory from Lake Michigan to the Ohio and Mississippi rivers. Colonies were established by these leaders at Kaskaskia, Cahokia, Peoria and other places, and the territory was included in the vast domain which was named Louisiana, in honor of

Louis XIV. of France. Other French settlements were made until there were several thousand inhabitants in the territory in the year 1763, when France was obliged to relinquish to England all her claims, as a result of the French and Indian War.

Still the local government of the country remained in the hands of the French, subject to the military control of the English, until the year 1778, when all of the principal settlements were visited by a band of enterprising and adventurous Virginians, who compelled the inhabitants to swear allegiance to the colony of Virginia. Had it not been for this conquest by the Virginians, the entire Northwest would have been in British hands at the close of the Revolution, and, like Canada, might have remained an English province.

A Virginia County.—From this time until 1784, the territory which now composes the State of Illinois, including the entire region north of the Ohio and east of the Mississippi, was governed loosely as a county of Virginia by officers appointed by the governor of Virginia, and in this way many of the local regulations and customs of Virginia were impressed upon these pioneer settlements.

By cession from Virginia in 1784 Illinois became the property of the Federal Government.

From the close of the Revolutionary War until the year 1787 the civil government of Illinois was neglected by both Virginia and the United States Government to such an extent that local affairs were entirely without regulation. Such courts as had been established by Virginia ceased to perform their functions, public officers did not discharge their duties and lawless individuals plundered the people at will.

Ordinance of 1787.—Thus the urgent necessity of providing some form of government for the inhabitants of this territory became apparent, and Congress was busy with this

problem from March 1, 1784, when a committee, of which Thomas Jefferson was chairman, was appointed to prepare a plan for the temporary government of the Northwest Territory, until July 13, 1787, when the famous Ordinance of 1787 was enacted by Congress, which marks the beginning of civil government in Illinois.

This celebrated law, the object of which was to provide a government for the territory north of the Ohio River, called the Northwest Territory, has been the subject of so many encomiums that it deserves more than a passing mention in this connection. In speaking of it Daniel Webster said: "I doubt whether one single law, ancient or modern, has produced effects of more distinct, marked and lasting character than the Ordinance of 1787." Equally significant are the words of Chief Justice Chase of the United States Supreme Court, who said: "Never, probably, in the history of the world did a measure of legislation so accurately fulfill and yet so mightily exceed the anticipations of the legislators."

This law provided a temporary form of government for a vast and partially unexplored territory, sparsely inhabited by Indians, half-breeds, Frenchmen, pioneers and adventurers from the Eastern States and from other parts of the world. Owing to its great length and the number of its provisions, a detailed statement of its contents will not be attempted.

The chief merit of the enactment was due to the fact that it embodied in the fundamental law of this territory many of the principles which had been announced in the Declaration of Independence, and thus secured to the inhabitants and their posterity all the benefits, both social and political, which had been derived from the enlightened theories of the signers of the Declaration.

Among these benefits may be mentioned, the right to freedom of opinion and worship, trial by jury, the writ of habeas corpus and proportionate representation. In addition to these, the provision forbidding slavery in the territory and the law of inheritance by which the property of an intestate descended equally to his children were important, because they prevented the formation of a landed aristocracy and secured a body of citizens upon a reasonable basis of equality in the ownership of land.

The form of government provided by this ordinance was not particularly liberal in the matter of allowing the people to exercise the right of local self-government. The governor was appointed by Congress and vested with authority to fill all of the minor offices. Three judges were also appointed, who, with the governor, were given power to prescribe the laws until such time as the territory had a population of 5,000 inhabitants. This population having been attained, the territory was authorized to elect a general assembly, but the elective franchise could be exercised only by citizens who owned at least fifty acres of land, and a representative was required to be a citizen of the United States, a resident of the district from which he was elected and the owner of at least two hundred and fifty acres of land. From time to time these provisions were modified by amendments, and the people were gradually given greater rights, until in 1811 the right of suffrage was extended to all those who paid a tax and had resided in the district one year.

The Territory of Illinois.—As the Northwest Territory increased in population and wealth, it was divided and at different times five sovereign States were created from it. By the Act of Congress of February 3, 1809, the Territory of Illinois was organized and a form of territorial government was provided. By this act the name of Illinois was

restored, which had been abandoned ever since the enactment of the Ordinance of 1787.

For nine years Illinois remained a Territory. On April 18, 1818, Congress passed a law* enabling its people to form a State constitution, which was done by a constitutional convention assembled at Kaskaskia, and the work was completed on August 26 of that year. With the adoption of this constitution Illinois was ready to take its place among the States of the Union, and by resolution of Congress, on December 13, 1818, it was admitted on an equal footing with the original States.

With this brief survey of the government of Illinois prior to its admission into the Union, it becomes necessary to pause in our study of its local institutions and to consider certain conditions and instrumentalities which influenced the original form as well as the subsequent growth and development of its political affairs.

Local Institutions.—The State of Illinois, extending from Lake Michigan to the Ohio River, has an extreme length from north to south of nearly 400 miles. The northern portion of the State is in the same latitude as the New England States and northern New York, the central portion corresponds in latitude with New Jersey and Maryland, while the southern part is on the same parallel as Virginia. These facts are important, because, as has been remarked by all writers who have observed the westward movement of the population, the migration from the Atlantic States to the interior has, as a general rule, followed the parallels of latitude.

Accordingly, we find that from Virginia and Kentucky settlers crowded into the southern part of the new State of

*See Appendix B.

Illinois, while the northern portion was peopled mainly by emigrants from New England and New York. Thus two somewhat dissimilar systems of local government were transplanted to the State of Illinois, one being based upon the local institutions of Virginia and the other derived from the political system of New England.

The differences between these two plans of local government are quite marked, and in Illinois they were for the first time brought into contact with each other in the same State, as it was left to the inhabitants of each locality to determine for themselves under which system they preferred to live.

When Illinois became a State the larger portion of the population was in the southern part, owing to the French settlements and the Virginia conquest, and naturally the southern system of local government was more generally in use than that of New England, but a few years prior to this time the flow of immigration from the south had been checked and gradually diverted to Missouri. This was due to the provision of the famous Ordinance of 1787 which forever prohibited negro slavery in the Northwest Territory, or in any State created from it, thereby rendering it impossible for Illinois to come into the Union as a slaveholding State.

Therefore, it followed upon its admission as a State that immigration to the northern portion increased more rapidly than to the southern, and the struggle for supremacy between the two systems of local government commenced, which forms one of the most interesting features of the history of civil government in our State.

In order thoroughly to comprehend the rivalry between these two political systems, which has influenced to a marked degree the legislation and local government of Illi-

nois, it is necessary to study the organization of the New England town, which formed the basis of local government in the northern part of the State, and the Virginia county, which furnished the model for the people in the southern part, and for this reason the two succeeding chapters will be devoted to these subjects.

CHAPTER XIV.

THE NEW ENGLAND TOWN.

The New England town and its annual meeting deserve a place in our study, because their influence in shaping the local government of Illinois has been potent and beneficial. This institution is, in the opinion of all writers upon the subject of civil government, the most perfect example of a government by the people that can be found in the political history of any nation, and the town meeting, as it existed in the early days and still exists in some New England communities, has been a nursery of patriotism, a school for the education of citizens and a safeguard for the preservation of the liberties of the people.

To understand fully the important part which the New England town has played in the political development of the State of Illinois, and how its essential features have been impressed upon the local government of that State, we must know in detail how it came into existence, for what purposes, and understand its leading characteristics.

Settlement of New England.—We have learned from the study of the history of our country that the early settlers of Massachusetts and the colonies which they formed were, in many respects, different from those of Virginia, Delaware, Georgia and others of the original colonies, to which fact is due, in a measure, the difference in the local institutions which they founded. Hence it becomes important to consider briefly the character and motives of the early settlers

of New England and the conditions under which they lived, because therein will be found the reasons which prompted the construction and promoted the growth of their political system.

The principal reason which impelled the pioneers of Massachusetts to leave their homes in England and seek an abiding place in a wilderness was their desire to pursue without restriction their own ideas as to church government and religious worship. In England they had been under restraint in respect to these matters, and having become dissatisfied with the forms and ceremonies of the English church, and being prevented by the civil officers from carrying out their own ideas in these particulars, they determined to seek a home where they could do as they pleased without fear of molestation from church or king.

Church Government.—They believed that the government of the church should be conducted by the members of the organization, and not in accordance with the dictates of the king or high church officials, and that religious worship should be simple in its forms and devoid of rites and ceremonies. They were students of the Bible and found in its lessons a guide for their daily life in their business and social relations. Their pastor was not only the person who expounded the gospel for their edification on Sunday, but he was also the man to whom the entire community looked for guidance in worldly as well as spiritual things.

Accordingly the immigration to New England was not one of individuals or families, but it was a movement of church congregations led by the pastors. These people settled in communities composed of individuals having the same ideas upon religious subjects and desirous of being under the leadership of the same pastor.

The Township.—The district in which they located was called a township, or town, that being the name to which they had been accustomed in England. The town was irregular in shape, there being no general system of surveys, and its limits were determined by the size of the community and the needs of the inhabitants. It was comparatively small in territory and compact in its settlement.

There were good reasons for all of these peculiarities. The individual holdings of land were small, because the climate and soil were such as to prevent raising those crops which require large areas, like cotton, wheat or rice, and each family needed only a small tract of land as compared with the requirements of a southern planter or a western farmer. Another reason for the compactness of the community was the danger from the attacks of hostile Indians and the necessity of providing for a common defense, and still another, and perhaps to them the most important of all, was the desire to have a common place of worship and to be under the ministrations of the same spiritual leader.

Therefore we find these communities arranged so that the church may be as nearly as possible in the center of the population; and close by it was located the blockhouse or wooden fort in which the people could take refuge in case of an Indian attack. Sometimes the same building was both church and blockhouse, and constituted the defense of the people against both spiritual and physical foes. A little later, we find in a similarly central location another building destined to have a most important influence upon the future of the country—the schoolhouse. The Pilgrim Fathers were strong believers in the necessity of general education, but for reasons which would seem strange if advanced at the present day. The community was essentially religious, and the earliest school law enacted in this country provided for

the establishment of a school, so that the rising generation might read and understand the Bible, and so be protected from the machinations of "that old deluder, Satan," whose one chief project was "to keep men from the knowledge of the Scriptures."

It would be interesting and instructive to go further into the details of life in one of the early New England towns, but enough has been said to show the leading characteristics of the community.

The Town Meeting.—The same ideas which controlled in church government were applied to temporal affairs, and therefore the civil government was administered by a meeting of all the male inhabitants of the town over twenty-one years of age. This meeting was regularly held once a year in the early spring time, usually in the month of March, and was called the town meeting. In this meeting every member had an equal voice and was at liberty to make motions and offer resolutions and take part in the discussion of any and all questions under consideration, such as the levying of taxes, the election of officers and the expenditure of public money.

Town Officers.—*Selectmen.*—The principal town officers were the Selectmen, usually three in number, but sometimes five or seven, according to the size of the town. These officers, as their title shows, were men selected at the town meeting to administer the government of the community and to carry out the acts and resolutions of the people as expressed by the proceedings of the town meeting.

As the time for the town meeting approached, the Selectmen issued their warrant, or call, for the meeting, which was posted in the most conspicuous places throughout the town and designated the time and place for holding the meeting. On the appointed day the meeting was called to order by

the Clerk, who read the warrant issued by the Selectmen. The meeting then proceeded to elect a presiding officer, called the Moderator, and transacted its business in accordance with the usual parliamentary rules which govern public meetings.

At these meetings, officers were elected for the ensuing year, taxes were levied, provision was made for public works, such as the improvement or construction of highways and bridges and the maintenance of schools and almshouses.

The Selectmen were the principal officers elected, and it was their duty to execute the mandates of the town meeting and to enforce the ordinances governing the community. They governed the town during the intervals between the town meetings, and acted as assessors of taxes, overseers of the poor, supervisors of highways and bridges, and in fact constituted the executive branch of the local government.

Clerk.—The Town Clerk was an officer of great importance. It was his duty to keep the records of the town meetings and of the meetings of the Selectmen, as well as a register of births, deaths, marriages and the location of highways, public surveys and other matters which are required to be recorded.

Treasurer.—A Town Treasurer was also elected, who received all money belonging to the town, such as tax collections and license fees, and paid it out as ordered by the Selectmen.

School Committee.—The management of the public school was entrusted to a School Committee consisting usually of three members. This committee determined how much money was needed for the support of the school, decided upon the location and erection of the school building, employed the teachers, prescribed the studies to be pursued,

selected the textbooks to be used, made frequent visits to the school and guarded its interests in every way. The people attached great importance to the education of the young, and the persons selected for the administration of so sacred a trust were chosen with a special view to their fitness to perform their duties.

Other Officers.—Other officers selected at the town meeting were Constables, who served writs issued by the courts; Poundkeepers, who had charge of the yards where stray animals were kept; Fence Viewers, whose duty it was to settle disputes as to the location of boundary lines and fences between neighbors; Surveyors of Lumber and Sealers of Weights and Measures, who examined the scales and measures in use in the community, so that none might be defrauded by the use of false weights and incorrect measures.

There were also other officers having special duties to perform, but enough have been enumerated to show that in the days of the town meeting the people in a body elected every officer to whom public duties were entrusted. There were no appointive offices, and the persons chosen for the respective positions were answerable only to the people for the manner in which they performed their duties.

Influence of the Town Meeting.—Such, in brief, was the form of government which originally existed in all the New England communities and still exists unimpaired in many sections which have refused to abandon it for more pretentious governmental methods. In these meetings, all qualified persons took part and attendance was compulsory, failure to attend being punishable by fine. It was a complete exemplification of a government “of the people, for the people and by the people.” Its educational value to the citizens taking part in these deliberations was great, for in these meetings the humblest and poorest citizen had an

equal voice with wealthy and educated men in framing measures of public interest. All were on an equal basis, and the habits thus cultivated of giving personal attention to public affairs, of taking part in debate and giving expression to individual ideas, however crude, were of inestimable value in forming the characters of the citizens.*

The Town of Boston.—Probably the best and most readily accessible example of what may be accomplished in the way of government by town meeting is to be found in the public records of the town of Boston, covering a period of about one hundred and eighty years from the organization of the town to the year 1822. At the last mentioned date, the town had a population of about 40,000 inhabitants, and the town meetings were so large as to be unwieldy and unmanageable. Therefore, the people abandoned this plan of government and obtained from the Massachusetts legislature a city charter, under which its public affairs were no longer managed by the body of the people, but by representatives chosen by them.

For the first one hundred years the record consists of details relating to municipal questions, such as the location of streets, the appropriation of lands for burial purposes, a discussion of educational matters and the levying of taxes; but about the year 1761 a change is to be noted, and from that time the record becomes more and more interesting, being enlivened with numerous addresses to the King and Parliament, and protests against unwarrantable assumptions of power and authority by the royal officers.

In fact, the town meeting of Boston was regarded by English sympathizers as a hotbed of treason to the King, and

*A graphic and interesting account of the proceedings of a New England town meeting is contained in Chapter XXIII of Hosmer's *Life of Samuel Adams*, American Statesmen series.

the town of Boston, as a political center, was the particular object of hatred on the part of the royalists, because from these meetings emanated the discussion of those doctrines which afterward, embodied in the Declaration of Independence, resulted in the emancipation of the colonies from the rule of Great Britain.*

The Unit of Representation.—We have thus far considered the town meeting as a means of local government, but it performed another function equally important as a part of the scheme of representative government. The New England town was the unit of representation. When the people came to take part in the wider government, which controlled the affairs of the entire colony and afterward of the State of Massachusetts, they did so through the medium of representatives elected by the citizens of the various towns, who, in the aggregate, formed the General Assembly, or legislative body. It was also the unit for distributing the assessment of taxes—that is to say, having ascertained the amount necessary to be raised by taxation for public purposes, the General Assembly apportioned this amount among the various towns in proportion to their wealth and population.

The system of government by township, the origin of which, in this country, has been briefly described, has been impressed upon the local government of a very large number of States of the Union, whenever emigrants from the New England States have had a hand in framing the political institutions of the newly created State. The principal features of this system are preserved even in communities made up of citizens of foreign birth and extraction, who have readily adopted it as being best fitted for carrying out the principles of a democratic form of government.

*Hosmer's *Life of Samuel Adams*, Chapter I.

CHAPTER XV.

THE OLD VIRGINIA COUNTY.

Another typical institution, which has had great influence in shaping the development of the political institutions of the State of Illinois, was the Virginia county, as it existed in the days prior to the Revolution. All writers are agreed that the various forms of local government prevailing in the United States have been the growth of either the township system, derived from the New England colonies, or the county system, which was first developed in the colony of Virginia.

The Origin of the County.—The study of the county in its origin enables us to distinguish between those institutions which are directly traceable to the township form of government on the one hand and the county system on the other. Especially is this necessary in studying the civil government of Illinois, because in that State either system is adopted for purposes of local government, according as the people may elect.

The county, like the township, was of English origin, and was, in the first instance, used to designate the portions of England in which the early inhabitants dwelt. This is plainly shown by many of the county names which still exist in England. For example, the County of Essex was originally the home of the East Saxons, and the County of Middlesex was the abode of the Middle Saxons.

Those who have read English history will remember

that still another German tribe invaded England called the Angles. These people and the Saxons were of similar origin, and the term "Anglo-Saxon" is used to designate the union of these tribes. From the Angles was derived the name of England, and after their settlement they were divided into two tribes known as "North Folk" and "South Folk," from which originated the two county names of Norfolk and Suffolk. All these county names were imported to this country by the early settlers and one or more of them can be found in use to designate either a county or a city in nearly all of the original thirteen colonies.

We shall not undertake to show how these counties were originally governed in England, as it is sufficient for the purposes of our study to note their English origin, and that the affairs of the English county were entrusted to officers having the same titles and performing the same duties as in our own State. Among these officers were the Sheriff, the Constable, the Justice of the Peace and the Coroner, all of whose functions will be hereafter described.

The English Parish.—In process of time, the counties of England came to be subdivided into parishes for the purpose of local self-government. The parish was a territorial subdivision of the county, and its business was transacted at a meeting held periodically called the vestry meeting. The people taking part in this meeting were called the vestry. We find among the officers of the parish a Clerk, who performed duties for the parish similar to those performed by the Town Clerk for the township; Church Wardens, whose special duties originally were to care for the church property and collect the taxes levied for religious and charitable purposes; and there were many other officers who performed duties similar to those of the officers enumerated heretofore as a part of the system of township government.

Settlement of Virginia.—The conditions under which the colony of Virginia was settled were such as to prompt the importation of the county and parish system of government rather than the township system, which prevailed in New England. Among these conditions probably the most important was the character of the immigration. We have seen that New England was settled by church congregations who, emigrating together, settled in communities. But in Virginia the land was settled by individuals who received from the King grants of large tracts for the purpose chiefly of raising tobacco. Consequently the settlement of the colony was not in compact communities, but by isolated plantations.

Social Conditions.—The principal industry being the cultivation of tobacco, large areas of land were necessary and cheap labor was required. This led to the importation of slaves and their employment in the tobacco fields, and also to the transportation to the colony of criminals from the large English cities. Both of these elements in the population had a degrading effect upon the community, as neither class was capable, by education or instinct, of taking part in the affairs of the local government. Class distinctions were, therefore, created, and the landowners constituted an aristocracy, holding themselves aloof from their slaves and the lower classes of the white population.

Another peculiarity of the Virginia colony, distinguishing it from those of New England, was the absence of towns, which was due not only to the large plantations already noted, but also to the fact that there were no manufacturing or commercial industries by which towns mainly exist and prosper. The eastern portion of the State contains a large number of navigable rivers which, with their branches, afforded a ready means of communication between all the

different parts of the colony, and with the ocean, consequently the crops were moved directly to vessels which conveyed them to Europe and supplies were received by the colonists in the same manner, thus rendering it unnecessary for the community to rely upon local markets for the purchase of such articles of necessity as they were unable to raise upon their plantations.

The following words of Mr. Thackéray depict in a graphic manner the social conditions which prevailed in colonial Virginia:

"The whole usages of Virginia, indeed, were fondly modeled after the English customs. It was a loyal colony. The Virginians boasted that King Charles II. had been King in Virginia before he had been King in England. English King and English church were alike faithfully honored. They held their heads above the Dutch traders of New York and the money-getting Roundheads of Pennsylvania and New England. Never were people less republican than those of the great province which was soon to be foremost in the memorable revolt against the British crown.

"The gentry of Virginia dwelt on their great lands after a fashion almost patriarchal. For its rough cultivation each estate had a multitude of hands—purchased and assigned servants—who were subject to the command of the master. The land yielded their food, live stock and game. The great rivers swarmed with fish for the taking. From their banks the passage home was clear. Their ships took the tobacco off their private wharves on the banks of the Potomac or the James River and carried it to London or Bristol, bringing back English goods and articles of home manufacture in return for the only produce which the Virginian gentry chose to cultivate. Their hospitality was boundless. No stranger was ever sent away from their gates. The gentry received

one another and traveled to each other's houses in a state almost feudal."*

The Virginia Parish.—For these reasons probably, the parish system of local government was employed and the affairs of the community were governed by a vestry meeting with its church wardens and clerk. The body of the people were called the vestry, and at their annual vestry meeting they elected twelve vestrymen corresponding to the selectmen of the township, whose duty it was to administer the affairs of the parish in the intervals between the vestry meetings. If these vestrymen had continued to be elected by the entire body of the people the system would have been a democratic one, but in process of time the vestrymen themselves assumed the right to fill vacancies in their body, thereby perpetuating themselves in power and constituting in effect an oligarchy, or ruling class, which has always been damaging to the existence of republican institutions.

That it was not subversive of these institutions in Virginia and other southern colonies, was due to the fact that the vestrymen were men actuated by the highest motives, having the public welfare at heart. Thomas Jefferson, who was a profound student of local government, said: "The vestrymen are usually the most discreet farmers, so distributed through the parish that every part of it may be under the immediate eyes of some one of them. They are well acquainted with the details and economies of private life, and they find sufficient inducement to execute their charge well in their philanthropy, in the approbation of their neighbors and the distinction which that gives them."

The Unit of Representation.—From what has been said, it might be assumed that the difference between the

*The Virginians, Chapter III.

Massachusetts and the Virginia colonies was not so great after all, and that it was a difference in name more than anything else. This would doubtless be true to a certain extent so far as the government of the parish on the one hand and the township on the other is directly concerned, but the difference appears more marked when we learn that in Virginia the parish was not the political unit. It was not the agency used to elect the representatives of the people in the wider government of the entire colony. In Virginia the county was the unit of representation and the legislature was composed of representatives of the respective counties and not of representatives of the parishes.

County Court.—The principal agency in administering the government of the Virginia county was the County Court, which was composed of eight justices of the peace and which met monthly in some central locality. The members of the court were appointed by the governor, but, as a matter of fact, after the court was first constituted it was practically a self-perpetuating body, because it was customary for the court itself to nominate to the governor suitable candidates for the filling of all vacancies, and its recommendations were generally followed.

The county court had a limited jurisdiction in civil and criminal actions, and had charge of the probate of wills and the administration of estates. In addition to its judicial functions, it also superintended the construction of bridges and highways and appointed most of the county officers, such as surveyors, constables and coroners, and levied the taxes for the entire county to be expended for such public purposes as payment of salaries, construction of roads and public buildings.

Taxes.—As the population of Virginia was scattered and there were no towns in the early days, many of the objects

for which taxes are levied in municipalities did not exist in the colony. The local taxes were levied by the vestrymen and were applied principally for ecclesiastical purposes and the support of the poor, and the general taxes, for the purposes which have already been mentioned, were levied by the county court.

Sheriff.—Under the county system, which prevailed in Virginia, the Sheriff was an officer having a multitude of duties. He not only acted as the executive officer of the court, and in that capacity served writs, took care of the courthouse and jail and enforced the decrees and orders of the court; but he also in many cases acted as the collector of taxes, and as the treasurer, who held the proceeds of the taxes when collected, and in addition to these duties he presided over the election of the representatives to the legislature. The Sheriff was appointed by the governor upon the recommendation of the county court.

Town and County Systems Contrasted.—From this outline of the local governmental arrangements in Virginia we find that the governing power was not vested in the people, but was in the hands of a comparatively limited number of the citizens. As indicated by the words of Jefferson, already quoted, such a government will, no doubt, be beneficial, economical and efficient, as long as the persons in control are actuated by proper motives and in the discharge of their duties consider the welfare of the community, and not their own private and personal ends.

In contrasting the two systems of local government prevailing in New England and in Virginia, two points of difference may be noticed. In New England, under the township system we find that practically every public officer having any governmental duties to perform was chosen directly by the people, and that in Virginia the most important of

these officers were nominally appointed by the Governor, but in reality were appointed by their associates in office, thus creating a governing aristocracy, which is repugnant to a democracy. We also notice that in New England the entire management of local affairs was in the hands of the inhabitants of the respective communities, while in Virginia the only local affairs which were even theoretically under the control of the people were those pertaining to the parish, which concerned solely the support of the church and the maintenance of the almshouses, all other local affairs being controlled by the county officers.

It has been said that the New England system is the one most likely to cultivate in the minds of the people a thorough knowledge of the duties of citizenship and to develop in them a sense of individual responsibility for the proper management of public affairs, while the Virginia system, tending, as it does, to divide the population into classes and to restrict the management of governmental affairs to a few, was more likely to develop qualities of leadership in members of the governing class.*

*Fiske's Civil Government, page 66.

CHAPTER XVI.

THE CONSTITUTIONS OF 1818 AND 1848.

The Enabling Act.—Reference has been made in a preceding chapter to the Act of Congress passed on April 18, 1818, enabling the people of the State of Illinois to form a State constitution, and as the provisions of this law have an important bearing upon the political institutions of the State, it is well to consider it somewhat in detail.* The object of this act was to set forth the conditions under which the inhabitants of the Territory of Illinois would be allowed to form a State government.

It fixed the boundaries of the State as they are at the present time and provided that Illinois and Indiana should have concurrent jurisdiction over that portion of the Wabash River which forms a boundary line between the States, and that Illinois should have concurrent jurisdiction on the Mississippi River with any State or States west of the river, so far as the river should be the common boundary to both.

At this time Illinois was divided into fifteen counties. The enabling act recognized these counties as the units for determining the number of representatives of each locality in the convention to be called for the purpose of framing a State constitution, and directed that the constitutional convention should meet at the seat of government, which was Kaskaskia, on the first Monday of the ensuing August.

*For text of Act see Appendix B.

Congress did not suggest what the provisions of this constitution should be, except that it must be republican in form and not repugnant to the Ordinance of 1787, the importance of which in prohibiting slavery in the Territory has already been noticed.

Four Propositions. — The enabling act also formulated four propositions to be submitted to the convention, which, if accepted by the convention, should thereafter constitute a contract between the United States and the State of Illinois and be obligatory upon both. Two of these proposition have been of great value to the citizens of Illinois, because they furnished the foundation of the common-school system of the State and were in substance as follows:

That the section numbered sixteen in every township should be granted to the State for the use of the inhabitants of such township for the support of schools, by the acceptance of which the people of every township in the State were from the beginning provided with the means of establishing a system of common schools, and that one entire township consisting of thirty-six sections, or square miles of land, to be designated by the President, should be reserved for the use of a seminary of learning.*

A third proposition provided that five per cent of the proceeds of the sales of public lands after January 1, 1819, should be reserved for the following purposes—viz: Two fifths to be disbursed under the direction of Congress in making roads leading to the State, and the remaining three fifths to be appropriated by the legislature for the encouragement of learning, of which one sixth should be bestowed exclusively on a college or university.

*It is assumed that the pupil, in connection with the study of arithmetic, has been made familiar with the system of land surveys in use in the State of Illinois. For this reason no explanation of the terms is given.

The remaining proposition required that all salt springs within the State and the land reserved for the use of the same should be granted to the State and remain under the control of the legislature. At the present time, it seems strange that so much importance should have been attached by Congress to the protection of the salt springs, but it must not be forgotten that salt is an article of prime necessity, without which men and domestic animals cannot exist, and that in pioneer communities it was not so easily obtained as at the present time.*

By these propositions, all of which were accepted,** we see the forethought of Congress in providing for the social and material welfare of the new State, which no one dreamed would become the *third* in the Union in point of population within the lifetime of persons then living.

The First State Government.—The constitution of 1818, which was adopted at Kaskaskia on August 26 of that year, complied with the requirements of the enabling act. It established a republican form of government, and expressly declared that all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. It recognized the ordinance of 1787 by providing that neither slavery nor involuntary servitude should thereafter be introduced into the State otherwise than for the punishment of crimes, and by other specific provisions prohibiting the slavery of negroes and mulattoes in the State.

Following the model of the Constitution of the United States and the constitutions of the older States, the powers of the government of the State of Illinois were divided

*See Moses' History of Illinois, which contains much interesting information on this subject, Chapter XIX.

**For text of Ordinance accepting enabling act, see Appendix C.

into three distinct departments—legislative, executive and judicial—and each department was forbidden to exercise powers belonging to the others. The legislative power was vested in a general assembly consisting of a senate and house of representatives to be elected by the people; the executive power was vested in a governor; and the judicial power in a supreme court, composed of a chief justice and three associates, with such inferior courts as the legislature should, from time to time, establish.

The constitution of 1818 was the supreme law of the State until it was superseded by the constitution of 1848, which in turn gave place to that of 1870; therefore, it is not necessary to consume further space in considering its features, except to notice the provisions made for local government.

The County System Adopted.—It made no mention whatever of cities or other municipalities; but, recognizing the county as the unit for local government, it provided that in each county there should be elected three county commissioners to transact all county business, whose powers and duties should be regulated and defined by law. Another paragraph specified that a competent number of justices of the peace should be appointed in each county in such manner as the general assembly might direct.

These are the only provisions of the constitution of 1818 affecting the question of local government, but it is important to note them, because they formed the basis for reproducing in Illinois the Virginia system, by which the county was the principal agency in the regulation of local affairs. The Board of County Commissioners, which was given the entire management of county affairs, corresponded with the Virginia County Court, except in two particulars—they were elected by the people and exercised no judicial func-

tions. The county court in Illinois has always been a separate and distinct tribunal, exercising judicial powers alone and not charged with the duty of administering public affairs, as was the county court of Virginia.

Without going further into the details of the government under the constitution of 1818, it may be stated broadly that the Southern system of local government was in the ascendancy, and there were but few evidences that the local institutions of New England and the Middle States would ever be the choice of the greater portion of the inhabitants. This condition was due to the fact that immigration to Illinois up to this time had been largely from Virginia, the Carolinas and Kentucky.

Beginnings of the Township—"But even at this time there had been planted in Illinois and throughout the entire West a germ capable, under right conditions, of developing a highly organized township system."* Mention has already been made of the system of land surveys in use in Illinois and other Western States, by which the public domain was divided into tracts containing thirty-six square miles, called *townships*, in imitation of the New England name, solely for the purpose of convenience in describing and conveying real estate. This system was established by an ordinance enacted by the Continental Congress in 1785 upon the recommendation of a committee of which Thomas Jefferson was chairman, and it is interesting to note that so distinguished a Virginian as Thomas Jefferson should have been instrumental in introducing into the government of the Northwest Territory an element destined to supplant in local matters the institutions of his own State. And yet it may have been done advisedly, for the writings

*Shaw's Local Government in Illinois, Johns Hopkins University Studies in Historical and Political Science, Vol. I.

of Jefferson disclose that he was a great admirer of the township system, recognized its advantages over the parish and county system of Virginia, and freely admitted its superiority as an example of a pure democracy.

The next step in the development of this germ was the proposition of the enabling act accepted by the people of the State, whereby one section in each township was set apart for school purposes, and the subsequent enactment of laws needed for the proper administration of school affairs, by which the township was made a body corporate for school purposes and provision was made for the election of school officers by the people. In this way local government under the township system commenced in Illinois and in a short time the township lines formed the boundaries of districts created for other governmental purposes, such as elections, constructing roads and caring for the poor, and "as New England township life grew up around the church, so western localism finds its nucleus in the school system."*

Slavery.—Another agency contributing to change the character of local government in Illinois was the slavery question. Illinois, having been admitted to the Union as a free State, was no longer attractive territory to immigrants from the South, and with the admission of Missouri as a slave State under the Compromise Bill of 1820, this class of settlers ceased locating in Illinois, and passed on to Missouri, where there were no restrictions upon the owning of slaves. In the meantime the northern counties of the State began to fill up with people from New England and the Middle States, who had always been accustomed to the township system as the basis of local institutions.

*Shaw's Local Government in Illinois, page 19.

Rivalry Between Town and County—Hence a rivalry arose between the northern and southern ideas which caused considerable strife and bitterness of feeling with reference to legislative acts and local matters, but all of the time the northern idea was becoming more and more dominant.

It is not necessary to trace the history of the development of local government in Illinois during the thirty years between 1818 and 1848, but it is undoubtedly true that the struggle for supremacy between the two systems represented respectively by the county and township plans of local government was the prime cause which led to the adoption of a new and revised constitution in 1848, by which the rivalry between the two classes of inhabitants was settled in a satisfactory and harmonious manner.

The Compromise.—This constitution directed that the general assembly should provide by a general law for township organization, under which any county might organize whenever a majority of the voters of such county at any general election should so determine, and further, that whenever any county should adopt a township organization, the power of the county court over the fiscal affairs of the county should cease.

By this happy application of the familiar principles of local option, the controversy between the two rival theories of local government was largely settled and the sectional feeling over the question was practically ended. Immediately after the adoption of the constitution of 1848, the northern counties of the state proceeded to organize their local government upon the township plan, while the southern counties adhered to the county system to which they had been accustomed. In this way the sectional feeling upon the subject was allayed and the inhabitants of the

different localities were satisfied, because they were allowed to conduct their public affairs in the manner in which the majority preferred.

As the years have passed the vitality of the township system has been shown and its advantages for purposes of local government have been demonstrated by the fact that it has gradually taken the place of the county system in nearly all of the counties of the State. At the present time there are one hundred and two counties in Illinois, and of these only nineteen* still cling to the county system of government, thus showing that the township is likely to be preferred as an agency for local government in most cases.

Under the constitution of 1848, the general framework of the State government remained the same as under the constitution of 1818, although many new provisions were added, which had been rendered necessary on account of the changed conditions existing in the State, due to the large increase in wealth and population. The judicial department in particular was the subject of new enactments, and provision was made for the creation of inferior courts, instead of leaving their formation entirely to the legislature, as had been the case under the constitution of 1818.

*These counties are Alexander, Calhoun, Cass, Edwards, Hardin, Henderson, Johnson, Massac, Menard, Monroe, Morgan, Perry, Pope, Pulaski, Randolph, Scott, Union, Wabash and Williamson.

CHAPTER XVII.

STATE GOVERNMENT OF ILLINOIS.

We come now to study the government of the State of Illinois as it exists to-day under the constitution of 1870. This constitution was adopted on May 13, 1870, by a convention composed of delegates chosen by the people, which met at the capitol building in Springfield. It was ratified by a vote of the people on July 2, 1870, and went into effect on August 8, 1870.

The States are forbidden by the constitution of the United States to exercise any of the powers which have been given exclusively to the Federal Government, as those powers are such as affect all of the States, and therefore could not be exercised by the States separately with any degree of uniformity or harmony. It would cause a vast amount of confusion and trouble if each of the forty-five States of the Union had the right to exercise such national prerogatives as coining money, imposing customs duties, regulating patents and copyrights, making treaties with foreign nations or maintaining a military and naval establishment.

For this reason the Constitution has prohibited the States from exercising any of the powers of the national government, and in furtherance of the same purpose has expressly and specifically provided that no State shall attempt to do any of these things. With these restrictions the State government of Illinois can do almost anything

that its own constitution and the acts of its own legislature permit.

Scope of State Government.—To show the vast range of subjects which are under the control of the State government, the following words of a learned writer upon the subject are quoted in full:

"All the civil and religious rights of our citizens depend upon State legislation; the education of the people is in the care of the States; with them rests the regulation of the suffrage; they prescribe the rules of marriage, the legal relations of husband and wife, of parent and child; they determine the powers of masters over servants and the whole law of principal and agent, which is so vital a matter in all business transactions; they regulate partnership, debt, credit and insurance; they constitute all corporations, both private and municipal, except such as specially fulfill the financial or other specific functions of the Federal Government; they control possession, distribution and use of property, the exercise of all trades and all contract relations; and they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas or against the law of nations. Space would fail in which to enumerate the particulars of this vast range of power; to detail its parts would be to catalogue all social and business relationships, to examine all the foundations of law and order."*

We shall now present an outline of the general structure of the State government of Illinois, and show how its legislative, executive and judicial departments are constituted, and the powers of each, but some of the provisions of the constitution, such as those relating to revenue, edu-

*Woodrow Wilson, *The State*.

cation, suffrage and other matters, will be considered in subsequent chapters.

THE LEGISLATIVE DEPARTMENT.

The legislative power of the State is vested in a general assembly, consisting of a senate and house of representatives, both of which are elected by the people. A senator must be at least twenty-five years of age, but a person may be elected a representative at the age of twenty-one. A candidate for either of these positions must be a citizen of the United States, and must have been for five years a resident of this State and for two years preceding his election a resident of the district from which he is chosen. No person holding any lucrative office under the United States or this State can be either senator or representative. No person convicted of bribery, perjury or other infamous crime, or any officer who has failed to account for public money entrusted to his care, can fill these positions or any other office in this State. Members of the general assembly before entering upon their official duties are required to take a solemn oath of office, and any member who violates this oath must forfeit his office and be thereafter disqualified from holding any office of trust or profit in this State.

Senators and Representatives.—To determine the number of senators and representatives, the constitution provides that the State shall be divided into fifty-one senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year 1872 in districts having odd numbers held their offices for two years only, while those elected from districts having even numbers held their offices for four years, and elections of senators are held every two years, in either

the odd or even numbered districts. By this device the senate is never composed entirely of new and inexperienced members.

Minority Representation.—The house of representatives consists of three times as many members as the senate. Three members are elected from each senatorial district for a term of two years. In elections of representatives each voter may cast as many votes for any one candidate as there are representatives to be elected, or he may distribute his vote, or equal parts thereof, among the candidates as he shall see fit.

The operation of this rule will be readily comprehended when it is applied to a particular case. Thus at every state election three representatives must be elected from each senatorial district. The voter may cast three votes for one candidate, or one and one-half votes for each of two candidates, or one vote for each of three candidates. The effect of this provision is to give to the political party which happens to be in the minority in any particular district the power of electing one of its candidates.

Legislative Sessions.—The regular sessions of the general assembly must commence at 12 o'clock noon on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof; that is to say, an election of senators and representatives takes place every second year in the month of November and the regular session of the general assembly commences in the following January. The constitution forbids the holding of sessions of the general assembly at any other time, except in cases where a special session is convened by the governor, who has the right to exercise that power on extraordinary occasions.

The presiding officer of the house of representatives,

called the Speaker, is elected by the members of the house, but the lieutenant-governor, who is elected by the people, presides over the sessions of the senate.

Special Legislation Forbidden.—The constitution imposes some restrictions upon the power of the legislature to enact laws, without which there would be no limit to the scope or variety of legislation. It is unlawful for the legislature to pass special or local laws; that is, laws whose application is limited to particular persons or classes of persons, or to particular sections of the State, upon quite a variety of subjects, such as changing the names of persons and places, locating or changing county seats, laying out roads, regulating county and township affairs, incorporating cities, towns and villages, providing for the management of common schools or regulating the rate of interest on money. The effect of this prohibition upon the legislature is to render all laws uniform throughout the State, so that, for example, the legal rate of interest must be the same for the citizen of Chicago as for the inhabitant of Bloomington or Cairo.

Impeachment.—The provisions of the constitution of Illinois upon the subject of impeachment are similar to those of the Federal Constitution.* The house of representatives has the sole power of impeachment, and all impeachments must be tried by the senate, which acts in a judicial capacity in such cases. When the governor of the State is tried, the chief justice presides and two thirds of the senators must concur in order to secure a conviction. In case of conviction, the punishment is removal from office and disqualification from holding any office of honor, profit or trust under the government of this State.

*See page 75.

THE EXECUTIVE DEPARTMENT.

In comparing the provisions of the constitution of Illinois relating to the executive department with those of the Federal Constitution an important difference should be noted. Under the Constitution of the United States, the executive power is vested in the President alone, and all other officers having executive duties to perform hold their respective positions by appointment, while the constitution of Illinois provides that the executive department shall consist of a number of officers—viz.: Governor, Lieutenant-Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Superintendent of Public Instruction and Attorney General, all of whom are elected for a term of four years, except the Treasurer, who serves for two years only and is not eligible for election during the succeeding two years.

It is, therefore, apparent that the governor is only a part of the executive department, and that there are other executive officers deriving their powers from the same source as the governor—that is, from the constitution. “Indeed, it may be doubted whether the governor and other principal officers of a state government can, even when taken together, be correctly described as ‘the executive,’ since the actual execution of the laws does not rest with them, but with the local officers chosen by the towns and counties, and bound to the central authorities of the State by no real bonds of responsibility whatever.”*

Governor. —A person to be eligible for the office of governor or lieutenant-governor must be at least thirty years of age and must have been for five years next preceding his

*Woodrow Wilson, *The State*.

election a citizen of the United States and of the State of Illinois.

The powers and duties of the governor, as established by the Constitution of Illinois, may be generalized under the following heads :

1. *Certain Duties and Powers with Reference to the Legislature.*—It is his duty, at the beginning of each session and at the close of his term of office, to give to the general assembly, by message, information of the condition of the State and to recommend such measures as he deems expedient. He has the power of convening the general assembly in special sessions upon extraordinary occasions, and in case of disagreement between the two houses to fix the time to which the assembly shall adjourn.

2. *The Power of Appointment and Removal.*—The governor has the power of nominating and, by and with the advice and consent of the senate, appointing all officers whose appointment or election is not otherwise provided for. In case a vacancy occurs in any of the executive offices above mentioned, the governor has the right to fill the vacancy by appointment, until an election can be held. He also has the power of removing all appointive officers for malfeasance in office.

3. *Pardoning Power.*—He has the power of granting reprieves, commutations and pardons after conviction, for all offenses, subject to such regulations as may be provided by law.

4. *As Commander-in-Chief.*—He is commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out these forces to aid in executing the laws, suppressing insurrection and repelling invasion.

5. *The Power of Veto.*—Every bill passed by the legisla-

ture must be submitted to the governor before it becomes a law. If he approves the enactment, he signs it, and thereupon it becomes a law; if he does not approve, he returns the bill to the house from which it originated, together with his objections. This act of the governor is termed *vetoing the bill*.^{*} If the bill again passes both houses of the general assembly by a two thirds vote in each house, it becomes a law, notwithstanding the governor's veto. Any bill not returned by the governor within ten days after it has been submitted to him becomes a law in like manner as if he had signed it. In case he is prevented from returning the bill by the adjournment of the legislature, within ten days after the bill has been presented to him, he may exercise his right of veto by filing the bill, with his objections to it, in the office of the secretary of state.

In case of death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability is removed, devolve upon the lieutenant-governor.

Other State Officers.—*Lieutenant-Governor*.—The lieutenant-governor is president of the senate, but he has the right to vote only when the senate is equally divided upon a question. The senate is required to choose a president *pro tempore* to preside in case of the absence or impeachment of the lieutenant-governor, or when he holds the office of governor.

If there be no lieutenant-governor, or if the lieutenant-governor becomes incapable of performing the duties of the office, the president of the senate acts as governor until the vacancy is filled or the disability removed; and if the presi-

^{*}The word *veto* was originally a Latin verb, meaning "I forbid."

dent of the senate becomes incapable of performing the duties of the governor, the same devolve upon the speaker of the house of representatives.

Secretary of State.—The secretary of state is the official custodian of the books, papers, records and great seal of the State of Illinois. The title of his office more accurately describes his duties than is the case with the Secretary of State of the United States, who is a minister of foreign affairs. The secretary of state of the State of Illinois performs the duties which are usually imposed upon the secretary of any great establishment, and acts in the same capacity for the sovereign State of Illinois as he would if secretary of a large private corporation.

All public acts, laws and resolutions passed by the general assembly must be deposited in his office, and he is charged with the safekeeping of all documents deposited with him. It is his duty to keep a record of the official acts of the governor; to countersign and to affix the seal of the State to all commissions issued by the governor; to furnish, upon request and payment of the lawful fees therefor, a copy of any of the records in his office; to take charge of and care for the grounds and buildings situated in the city of Springfield belonging to or occupied by the State, as well as all of its personal property; to furnish to the public printer the necessary information for printing public records; and to supervise the distribution of the laws and journals of the general assembly.

Auditor.—The Auditor of Public Accounts is the official bookkeeper of the State of Illinois. It is his duty to keep the accounts of the State with any other State or Territory and with the United States, with all public officers, corporations and individuals having dealings with the State, and to audit all accounts of public officers who are paid out of

the State treasury, of the members of the legislature and all persons authorized to receive moneys from the State treasury. He also has many other duties to perform under various statutes of the State, such as the examination of the books and accounts of building and loan associations and of banks incorporated under the laws of the State.

Treasurer.—The Treasurer, as is indicated by the title of his office, must receive and keep all moneys belonging to the State of Illinois. This is an office of great pecuniary responsibility, and, therefore, to secure the faithful discharge of his duties, the Treasurer is obliged to give a bond to the people of the State in the sum of \$500,000, and is also required to furnish additional bonds whenever the governor shall deem it necessary.

The treasurer must receive all public moneys of the State and safely keep the same. Any person paying money into the State treasury must first obtain from the auditor an order directing the treasurer to receive the money, and if the treasurer should receive and receipt for any money without such an order being presented to him, he would be liable to removal from office. He can pay money out of the treasury only upon the warrant of the auditor, and he is required to keep accurate accounts of all moneys received and paid out by him and to report the same each month to the auditor.

Attorney-General.—The Attorney-General is the chief law officer of the State government. It is his duty, as prosecuting officer, to represent the people of the State in all cases in which they are interested, and also to protect State officers in suits brought against them in their official capacity. He is the legal adviser of the governor and other State officers, and is required, when requested by

them, to give written opinions upon all legal and constitutional questions relating to their duties, and to prepare all documents incidental to the business of the State. He is the legal adviser of both branches of the general assembly, and it is his duty to enforce the proper application of the funds appropriated for the support of the public institutions, such as schools and asylums, and to prosecute all persons who may be guilty of any breach of trust in the management of such funds.

THE JUDICIAL DEPARTMENT.

The constitution of 1870 made greater changes in the structure of the judicial department as it existed under the constitution of 1848 than in any of the other departments of the State government. Your attention has already been called to the fact that inferior courts were not created by the former constitutions of the State, but depended for their existence upon acts of the legislature. Under the constitution of 1870 the judicial powers of the State are vested in one Supreme Court, Circuit Courts, County Courts, Justices of the Peace, Police Magistrates, and such other courts as may be created by law in and for cities and incorporated towns.

Supreme Court.—The Supreme Court consists of seven judges, who have original jurisdiction in cases relating to the revenue, *mandamus** and *habeas corpus***, and appellate jurisdiction in all other cases. One of the judges is the Chief Justice and presides at the sessions of the court. The others are called Justices, and serve in turn

*The word *mandamus* was originally a Latin verb, meaning "we command." In law it is used to designate a writ or order issued by a superior court, directing an inferior court or a public officer to perform some specific duty.

**For an explanation of this term see Chapter XXIV.

as Chief Justice. A person, to be elected to the office of judge of the supreme court, must be at least thirty years of age and a citizen of the United States, and must have resided in this State five years next preceding his election, and be a resident of the district from which he is elected. For the election of judges of the supreme court the State is divided into seven districts, each of which is composed of a number of counties. The terms of the supreme court are held at the capitol building in the city of Springfield, on the first Tuesday in October, December, February, April and June in each year.

Appellate Courts.—The constitution provides that after the year 1874 inferior appellate courts may be created in districts formed for that purpose, to which appeals may be taken from the inferior courts, and from which appeals lie to the supreme court in certain cases. Under this authority the legislature, on June 2, 1877, enacted a law establishing four appellate courts in this State and divided the State into four districts, in each of which an appellate court is held. The judges of this court are selected by the supreme court from the judges of the circuit courts of the several districts, and in the first district, which is composed of Cook County alone, the appellate court judges are selected from both the circuit and superior courts of that county.

The appellate courts exercise appellate jurisdiction only, and appeals to this court are taken from the lower courts in all cases except criminal cases, and cases involving a franchise or a free-hold or the validity of a statute. The decision of the appellate court is final in all cases where less than the sum of \$1,000 is involved, but an appeal may be taken from the decision of the appellate court to the supreme court in all cases where a greater

amount is involved and in cases involving a less sum wherein legal questions are involved of such importance that the judges of the appellate court certify the same to the supreme court in order to obtain its opinion thereon.

Circuit Courts.— Circuit courts have original jurisdiction of all civil cases, and also have appellate jurisdiction of cases arising before justices of the peace and before the probate court. The State, exclusive of Cook County and other counties having a population of 100,000 inhabitants, is divided into judicial circuits formed, as nearly as possible, of contiguous counties, but the population of any one circuit must not exceed 100,000 inhabitants. One judge is elected by the people for each of said circuits for a term of six years. No person can be elected to the office of judge of the circuit court unless he is at least twenty-five years of age, a citizen of the United States and a resident of this State for five years next preceding his election, and is a resident of the circuit in which he is elected.

The County of Cook constitutes one judicial circuit, and at the time of the adoption of the constitution of 1870 the circuit court of that county was composed of five judges, but their number has been increased from time to time, as the population has grown, so that at the present time there are fourteen judges of the circuit court in that county.

Superior Court of Cook County.— The County of Cook also has another court called the Superior Court of Cook County, which has the same jurisdiction as the circuit court. The existence of this court is due to the fact that, prior to the adoption of the constitution of 1870, there existed in the City of Chicago a court known as the Superior Court of Chicago, and the constitution provided that this court should be continued and called the Superior Court of Cook County. At the present time there are

twelve judges of the Superior Court of Cook County. The number of judges in both the circuit and superior courts may be increased by the general assembly whenever there is an addition of 50,000 inhabitants to the population of the county, by adding one judge to each of the courts.

Criminal Court of Cook County.—The County of Cook also has a criminal court, in which are tried all cases of a criminal nature arising in that county. In all other counties, criminal cases are tried before the circuit court, but in the County of Cook, owing to the large volume of business, it has been deemed wise to create a separate court for the trial of criminal cases only. This court is called the Criminal Court of Cook County, and its terms are held by one or more of the judges of the circuit or superior courts of Cook County as nearly as may be in alternation. A judge of the circuit or superior court, when sitting in the criminal court, is styled a Judge of the Criminal Court of Cook County.

County and Probate Courts.—In each county of the State there is a County Court, having one judge only, whose term of office is four years. County courts have jurisdiction in all proceedings for the collection of taxes and assessments, and in all insolvency matters, and such other jurisdiction as may be provided for by the laws of the State. In all counties, except Cook, Peoria and LaSalle, county courts also have jurisdiction in probate matters and the settlement of estates of deceased persons, appointment of guardians for minors and conservators for insane persons.

In the County of Cook matters relating to the settlement of estates of decedents are adjudicated in the Probate Court of Cook County. This court was created by the legislature in 1877 pursuant to the power given by the

constitution, which provided for the establishment of such a court in any county having a population of over 50,000 inhabitants. The judge of this court is elected by the people, and his term of office is four years.

This concludes the list of judicial officers of the State of Illinois, except justices of the peace and police magistrates, whose duties will be described in connection with the study of the county and municipal governments of the State. The constitution provides that all judicial officers shall be commissioned by the governor, that all laws relating to courts shall be general and of uniform operation, and that the method of transacting the business of the courts shall be the same in all parts of the State.

CHAPTER XVIII.

COUNTY GOVERNMENT IN ILLINOIS.

County Government in General.— We have learned something of the county system of government as it was introduced in the colony of Virginia, and afterward brought into Illinois by settlers from Virginia, and have seen that, like most of our political institutions, it is of English origin. Each State of the Union except Louisiana* is divided into counties, varying in size and population; therefore county government is general throughout the United States.

The county is a subdivision and agency of the State, created for convenience in administering the affairs of the State government. It is an institution of ancient origin, having a history full of interest to students of civil affairs. The county in England is older than the kingdom itself. It originated with the union of two or more clans into a tribe and their settlement in a fixed dwelling place, after which, in a comparatively short time, they assumed the form of a monarchy and the chief became known as a king.

When the Anglo-Saxon tribes invaded England and settled in different parts of the island, they created a number of small kingdoms, independent of each other. Afterward, when the government became centralized and subject to one responsible head, these individual kingdoms continued their existence, and were known as counties. Thus the

* Louisiana is divided into parishes for purposes of local government.

growth of the county in England has been essentially different from its development in the United States. In England the kingdom was created by a union of the counties, but in the United States the counties have been formed by a subdivision of the State.

The legislature of each State controls the division of the State into counties, all of which are created solely by legislative act. A county is endowed with certain functions, giving it the character of a corporation. It can sue in the courts and be sued; it can act only through its duly qualified officers; it can purchase such real estate as is needed for the uses of the county; it can sell or lease the same when no longer needed, and it can make all contracts necessary for the proper transaction of the county business.

The government of the county is, to some extent, divided into legislative, executive and judicial branches, although the greater portion of the powers exercised by its officers come within the executive and judicial branches.

Constitutional Provisions.—For purposes of local government Illinois was divided into counties before it became a State, and the county system of government was continued under the constitutions of 1818 and 1848. The constitution of 1870 recognized these subdivisions of the State as they existed at the time of its adoption.

The latter instrument made no change in the number or boundaries of the counties, but restricted the power of the legislature in respect thereto, by providing that no new county shall be formed having a smaller area than four hundred square miles, and that the territory of no county shall be reduced in area below that limit, and prohibiting substantially any change in the boundaries of a county without the consent of a majority of the legal voters of such county.

The constitution of 1870 also recognized the rivalry which had formerly existed between the respective adherents of the county and township systems of local government, by substantially re-enacting the provision of the constitution of 1848, whereby the voters of each county are given the right to determine which system shall be used. It also provided for the general government of counties *not under township organization*, by committing the management of their affairs to "The Board of County Commissioners," consisting of three persons in each county elected by the people.

Special arrangement is made for the county affairs of Cook County by the provision that they shall be managed by a board of fifteen commissioners, ten of whom shall be elected from the City of Chicago and five from the towns outside of the city. The government of other counties *under township organization* is managed by a board of supervisors composed of the supervisors* of the various towns in the county.

The constitution also requires the election of the following judicial and executive officers—viz.: County Judge, County Clerk, Sheriff, Treasurer, Coroner, Clerk of the Circuit Court and Recorder of Deeds, and provides for the compensation of these officers. All counties in the State have the above-named officers, except that, in counties having a population of less than 60,000 inhabitants, the clerk of the circuit court may also act as recorder.

The County Board—In counties under township organization the principal governing body is the Board of Supervisors, but in the County of Cook the same functions are performed by the Board of County Commissioners. Each of these bodies is ordinarily designated by the name of "The County Board," which name is also given to the Board of

*The office of supervisor is explained on page 184.

County Commissioners in counties not under township organization.

The members of the county board are elected by the people, and have charge of the business, property and funds of the county and the settlement of all accounts involving the receipts and expenditures of the county.

Among their important powers and duties are those relating to the construction and maintenance of county buildings, the management of the county institutions, such as almshouses, hospitals, insane asylums, schools, jails, court-houses, and the construction and management of roads and bridges throughout the county. In making rules and regulations for the proper government of these institutions, the county commissioners exercise a certain legislative power, subject, however, to the limitation that all rules and ordinances enacted by them must conform to the laws of the State.

They have the power to levy and to collect taxes for the support of the institutions of the county, and for the payment of salaries of county officers. At the present time the power to transact all general county business is vested in the county board. Under the constitutions of 1818 and 1848, in counties not under township organization, the county court was given the power to transact a considerable portion of the county business. This imitation of the Virginia system described in a former chapter was wholly abolished by laws enacted under the constitution of 1870.

Government of Cook County.—The County of Cook is by far the wealthiest and most populous county of the State. For this reason its government is attended with conditions which do not exist in other counties, and the legislature has enacted laws applicable solely to the board of county commissioners of this county. The term of office of commis-

sioners of Cook County is two years; one of the candidates is designated, on the ballot, for President of the Board and is elected to that office by popular vote.

The board is required to hold regular meetings at stated intervals. The president is the presiding officer and performs the general duties of this office. He appoints committees, oversees the work of employees and takes care that the business of the county is conducted as the law requires.

All resolutions and motions involving the appropriation and expenditure of money must be submitted to the county board in writing before they are voted upon, and when adopted by the board they do not go into effect until they have been approved in writing by the president. If the president does not approve any resolution or motion adopted by the board, he vetoes it by returning the written copy of the proposed act to the clerk of the board, together with a written statement of his objections to the same. In such a case, it requires the affirmative vote of four fifths of the commissioners to pass the measure over the president's veto. In case the president fails to approve or veto any resolution or motion within six days after its passage, it goes into effect without his approval.

The commissioners of Cook county have the same powers and duties as the board of supervisors in other counties under township organization, but the law of the State has prescribed certain additional rules, regulations and restrictions which do not apply to other counties in the State. They cannot delegate to a committee or other person the power of acting for the county in any case involving the letting of any contract or the expenditure of public moneys exceeding the sum of five hundred dollars, and no money exceeding this sum can be spent by any county officer unless

authorized by a vote of at least two thirds of the county board.

The board of commissioners must, within the first quarter of each year, adopt a resolution called the Annual Appropriation Bill, which determines the amount of money necessary to defray all the expenses of Cook County for the ensuing year. This appropriation bill must specify in detail the objects and purposes for which the money is to be spent, and, in order to give it publicity and prevent the appropriation of money for improper purposes, the law requires that it shall be published in a newspaper in the City of Chicago. The county commissioners can make no expenditure of money other than for the purposes and in the amounts specified in the appropriation bill, with the exception that in case of any unusual and unforeseen casualty by fire, flood or otherwise, the county commissioners have the power to appropriate money necessary in such contingency.

The law requires the commissioners to appoint a Committee on Finance, which has a general supervision over the financial affairs of the county; they are also required to appoint a Committee on Public Service, which has general charge of the public institutions and business of the board. The president of the board must appoint a Superintendent of Public Service, who is under the control of the Committee on Public Service, and whose duty is to purchase, receive and distribute all supplies necessary for the use of the county and its various institutions, and to keep accurate accounts of all his transactions.

All contracts for supplies, material and work for Cook County must be let to the lowest responsible bidder, after due advertisement. These contracts must be approved by the board of commissioners and signed by the president of

the board, the superintendent of public service and the county comptroller.

The Cook County Civil Service Commission.—In a former chapter the necessity of regulating the power of appointment to particular offices in the government of the United States was shown, and the evils which result from vesting this power of appointment in a single individual were explained. The statements and reasons there given are equally applicable to the large number of employes and officers who hold positions under the government of Cook County. Accordingly, the legislature of the State enacted a law creating a County Civil Service Commission for that county, which went into effect in the year 1895. By this law the president of the county board is required to appoint three commissioners; not more than two of them at the time of their appointment can be members of the same political party. It is the duty of these commissioners to classify all the offices and places of employment in the county government with reference to the examination of applicants for such positions. The offices and places so classified by the commission constitute the Classified Civil Service of the county, and appointment to such offices or places, and removals from them, must be made under the rules established by the civil service commission.

The law further provides that all applicants for offices or places in the classified service shall be subjected to examinations, which shall be public, competitive and free to all citizens of the United States, with specified limitations as to residence, age, health, habits and moral character. These examinations must be practical in their character and relate to those matters which will fairly test the relative capacity of the persons examined for discharging the duties of the positions to which they seek to be appointed, and shall in-

clude tests of physical qualifications, health and manual skill. All appointments to positions in the classified civil service of the county must be made from the list of those candidates who are qualified as shown by their examinations.

Other County Officers.—*The Clerk.*—This officer is required to maintain an office at the courthouse in the county, and is the keeper of the seal of the county, which must be used by him in numerous cases where he is required by law to authenticate his acts by the use of an official seal. He has custody of all the records, books and papers of the county. His duties are to act as the clerk of the county board, to keep an accurate record of its proceedings, as well as of all official bonds filed in his office, and all details relating to the same. He is required to give to persons demanding the same, and paying the lawful fee therefor, a copy of any record, paper or account in his office. He must also perform such other duties as may be required of him by law. Under this sweeping provision he has numerous duties under different statutes of the State.

In Cook County he is made the Clerk of the Board of County Commissioners and ex-officio the Comptroller of the county finances. In the latter capacity he has charge of all deeds, mortgages, contracts, bonds and other documents belonging to the county, and is the financial officer of the board of county commissioners in all of their business transactions.

The Sheriff.—The Sheriff is one of the most important executive officers of the county. He is elected by the people for a term of four years. The office of sheriff originated in England and is of great antiquity.*

*By some authorities the office of sheriff is said to have been created by King Alfred, but others are of the opinion that the office is of still greater antiquity and that it existed in the time of the Romans.—*Bowyer's Law Dictionary.*

It is the duty of the sheriff to execute the orders of the various courts of the county. If the courts have decided that one citizen is entitled to recover from another the amount of a debt owing him, and the debtor is unable to pay his creditor the amount due in cash, it becomes the duty of the sheriff, acting under the orders of the court which has heard and determined the matter, to levy upon and sell the property of the debtor in order to realize the amount of the debt.

If the court has decided that a person is guilty of an attempt to rob the house of a citizen, or commit other criminal offense, it is the duty of the sheriff to take possession of the person who is convicted upon such a charge, and confine him in the county jail, or to convey him to the State prison.

The sheriff is also the custodian of the jail and courthouse, and sometimes of other public buildings. He serves all writs issued by the courts and provides food for the prisoners in the county jail.

In case of a riot or other unlawful assemblage of persons within the county, it is the duty of the sheriff to enforce and maintain the law, and to this end he has the right to call upon any and all able-bodied citizens in the county to assist him. Thus he and his deputies perform the duties in the county which are delegated to police officers in the city.

Treasurer.—The County Treasurer must receive and hold, subject to the order of the proper county officers, all the funds belonging to the county. Sometimes the treasurer is made by law the county collector of taxes and performs important duties in that capacity. The county funds are derived from taxation, from fees paid by litigants in the courts of the county and from fines imposed upon persons who have violated the laws.

He is required to keep accurate accounts showing all moneys, revenues and funds received by him, specifying each kind of funds, whether gold, silver, county orders, or other funds authorized by law to be received as revenue. He must countersign all orders for the disbursement of the county money, and is required to report to the county board, from time to time, the condition of the funds of the county.

Coroner.—Another county officer is the Coroner, whose duty it is to investigate and report upon all cases of death from unexplained causes, where there is reason to believe that a crime has been committed or a serious accident has occurred. For example, if a dead body is found by the side of a county highway, possession of the corpse is given to the coroner, who summons a jury to ascertain, if possible, what caused the death of the person, and whether it was due to accident or to the commission of a crime. The coroner also performs some of the duties of the sheriff in executing the processes of courts of law. In case a suit is brought against the sheriff, it is the duty of the coroner to serve the summons notifying the sheriff to appear in court and answer the charges against him, because it would be manifestly absurd to require the sheriff to summon himself.

Clerks of Courts.—Clerks of courts, with the exception of the clerks of the supreme and appellate courts, may be regarded as county officers. Every court must have a clerk, as he is an indispensable officer of the court. Without a clerk, a court cannot do business any more than it can act without a judge. In this connection, we shall speak of the election of the clerks of all of the courts, and give a general statement of the character of their duties, which are similar in all cases.

The law requires the election of a Clerk of the Supreme Court, one Clerk of the Appellate Court in each of the districts, one Clerk of the Circuit Court of each county, one Clerk of the Superior Court of Cook County, one Clerk of the Criminal Court of Cook County, and one Clerk of the Probate Court in some counties. The county clerks of the several counties are the clerks of the County Courts in their respective counties, and, therefore, no clerk is elected especially for that court.

It is the duty of the clerk of a court to have an office in a fixed place in the courthouse, and to keep regular office hours. He is the keeper of the seal of the court, and is required to attend court in person when it is practicable to do so, but, when necessary, may appoint deputies, for whose conduct and acts he is responsible. The clerk is required to preserve all the files and papers relating to the various cases and other business before the court, and to keep a complete record of all of the proceedings, including the judgments, decrees and orders, of the court with which he is connected. For this purpose he must keep a general docket, in which all suits are entered, and proper indices to all of the books of record, so that there may be a ready and easy reference to them when desired.

This brief general statement does not convey an adequate idea of the numerous important functions which are performed by the clerks of the courts, or of the vast volume of business which passes through their offices, but as a familiarity with all of these details is not sought by any except members of the legal profession and others having business with the courts no further statement will be given concerning them.

Recorder.—The Recorder is a county officer of great importance, as will appear when the nature of his duties is ex-

plained. In all counties having a population of less than sixty thousand inhabitants the clerk of the circuit court is ex-officio the recorder. In all other counties a recorder is elected by the people. It is the duty of the recorder to receive and record, in properly bound books provided especially for that purpose, all instruments in writing which are filed in his office.

These instruments are those which relate to the transfer of real estate and personal property, either by act of the parties, as when a deed or mortgage is executed, or by operation of law, as when a decree of court has been entered affecting the title to real estate. The recorder is required, immediately on receipt of any instrument to be recorded, to enter in the order of its reception the names of the parties to the instrument, its date, the day of the month, hour and year of filing the same, and a brief description of the property specified in the instrument. All these instruments are required to be copied at length into proper books of record and suitable indices to be made and kept, so that a ready reference can be had at any time to the records.

Among the different kinds of instruments which are filed in the recorder's office the most important are deeds, mortgages, trust deeds, chattel mortgages, maps and plats and certified copies of judicial proceedings. The greatest accuracy is required in keeping the records in this office, because upon the sufficiency and correctness of the record depends, in many cases, the validity of the title of owners of real estate to their property.

State's Attorney.—The State's Attorney is the prosecuting officer of the county. He is elected by the people and holds office for the term of four years. It is his duty to prosecute all actions, both civil and criminal, in which the people of the county may be interested. Among these may be men-

tioned suits for the recovery of debts due to the State, county, school districts, or road districts, and all proceedings brought by any county officer in his official capacity. He must also defend the county in all legal proceedings against it and its officers in all suits brought against them in their official capacity.

He is principally concerned with the prosecution of criminal offenders against the law, but he also performs many other duties imposed upon him by various statutes of the State, such as compelling the sale of lands forfeited to the State, and prosecuting corporations who fail to comply with the laws of the State.

The office is one of great importance, and the incumbent should be possessed of ability and energy in order to meet the demands of his official position.

Justices of the Peace and Constables.—Justices of the Peace are county officers exercising judicial powers. This office is of great antiquity and was originally considered of much importance. In many of the States, however, the persons holding commissions as justices of the peace have but few duties to perform. In Illinois justices of the peace are magistrates, who have power to hear and determine civil cases in which the amount involved does not exceed the sum of two hundred dollars. They also have jurisdiction of criminal complaints punishable by fines only, and in criminal cases of greater importance they sit as examining magistrates and bind over the accused to await the action of a court of higher jurisdiction.

Justices of the peace, except in the City of Chicago, are elected by the people. In counties under township organization two justices of the peace and two constables are elected in each town at the general election of town officers. In counties not under township organization two justices

of the peace and two constables are elected in each election precinct.* Whenever the population of a town or of an election precinct exceeds two thousand inhabitants there shall be an additional justice of the peace and an additional constable for each one thousand inhabitants, provided that no more than five justices and five constables shall be elected in any town or precinct. Their term of office is four years.

Constables are the executive officers of the courts held by justices of the peace, and perform the same functions by way of executing the orders of the court as are performed by sheriffs and their deputies in courts of record.

Justices of Chicago.—The justices of the peace for the City of Chicago are selected by the judges of the circuit, superior, probate and county courts of Cook County, a majority of whom must concur in the selection. The persons so selected by the judges of the courts are recommended to the governor of the State for appointment to the office, and it is the duty of the governor to nominate the persons so recommended, and by and with the advice of the senate to appoint those persons to the offices of justices of the peace for the various towns composing the City of Chicago. In case the governor rejects any person who is recommended by the judges, or the senate refuses to confirm any person who is so recommended, the governor is required to give notice of such rejection or refusal to the judges, who, within ten days thereafter, must recommend some other fit and competent person for such appointment.

*For an explanation of the meaning of this term see Chapter XXI.

CHAPTER XIX.

TOWNSHIP AND VILLAGE GOVERNMENT.

After what has been stated in former chapters concerning the origin of township government in this country, and the reasons which caused it to become one of the established institutions of the State of Illinois, we are now prepared to enter directly upon the consideration of the principal features of this kind of local government as it exists in our State.

This form of government in the State of Illinois is used principally in rural communities, where the population is scattered, although it performs some functions in other places. In this State there are no populous places governed entirely by the township system, such as is the case in the New England States and was in the Town of Boston before it adopted a city charter. In the State of Illinois, as soon as any considerable number of people inhabit a small and compact territory, it follows almost invariably that a village or city organization is adopted, and that the township government ceases to be the agency for regulating many of the local affairs

Therefore, it must be noted that what is said in this chapter relative to the township form of government applies solely to those rural districts in which there are no cities or villages, and that the government of towns whose territory lies wholly within the limits of incorporated cities and villages is essentially different from that of those towns whose

territory is not a part of or identical with the territory of cities and villages. For example, each of the numerous towns which are included within the corporate limits of the City of Chicago has a complete township organization and elects a full list of town officers, but neither the town meeting nor the town officers exercise any of those powers which are committed by law to the city government of the City of Chicago.

These town governments do not undertake to regulate the construction, maintenance and use of public streets, or to enact ordinances for the protection of the public health, or to exercise many other powers given to town governments and exercised by them in cases where they have not been superseded by the city or village form of government.

Organization of Towns.—The general law of the State, adopted in 1874, contains detailed provisions by which the people of any county in the State may, by election, adopt township organization for their county or abandon the same, as they see fit. The power of superintending the division of the county into townships is given to the county board, and the county board may, after the township form of government has been adopted by a vote of the people, appoint three commissioners whose duty it is to divide the county into towns, making their boundaries conform to those established by government surveys as far as possible. The towns are given such names as may be chosen by the inhabitants residing therein, but if no preference is expressed by the residents, the commissioners have the power of designating the names.

After the division of the county into towns has been accomplished, it is the duty of the county board to make provision for calling a town election, which must be held on the first Tuesday of April next after the adoption of township

organization, and at this election the town officers hereinafter mentioned are elected by a vote of the people and hold their offices respectively for the term of one year. The law also contains similar provisions by which any county, which has adopted township organization, may discontinue the same by a vote of the people. The instances in which a township organization is discontinued have been exceedingly rare.

Corporate Power of Towns.—The legislature has endowed towns in this State with some corporate capacities, including the power to sue and be sued, to acquire property by purchase, gift or devise, to hold it for the use of the inhabitants, to sell and convey the same, and to make all contracts that may be necessary for the proper exercise of the powers of the town. The corporate powers are so limited by law that it has been customary to designate this kind of a municipal corporation as a *quasi-municipal* corporation, to distinguish it from municipal corporations proper, such as cities and villages.*

At the annual town meeting the voters have power to make all necessary orders for the sale, conveyance and use of the corporate property of the town, to take necessary measures for constructing and repairing roads, bridges and causeways, for the prosecution or defense of suits by or against the town, and for any other purpose for which they are required by law to spend money.

The voters at this town meeting also have power to pro-

*A municipal corporation proper may be defined briefly as a body politic and corporate created by act of the legislature whereby the inhabitants of a particular place are incorporated for the purpose of local government. Cities and villages are examples of municipal corporations proper, as they have all powers needed for a complete system of local government.

Quasi-municipal corporations have certain limited powers only. They are agencies of the State created for purposes of civil government generally, and not for the regulation of the local affairs of a compact community solely. Counties and school districts are corporations of this class.

vide for the institution and defense of all suits at law in which the town is interested ; to prevent the introduction or growing of Canada thistles or noxious weeds ; to allow rewards for their destruction ; to offer premiums and take such action as shall induce the planting and cultivation of trees along the highways ; to make rules and regulations for ascertaining the sufficiency of all fences ; to restrain, regulate or prohibit the running at large of cattle, horses, mules and other domestic animals ; to provide for the establishment and maintenance of pounds at such places as may be necessary and convenient for the confinement of all animals found running at large ; to construct and keep in repair public wells or other watering places ; and to make such rules and regulations as may be deemed necessary to carry into effect the powers granted to the town meeting.

These are only a part of the powers which the people can exercise at a town meeting in the State of Illinois, and we notice that they relate to matters of common interest to the people of a rural community. Many of the powers of the town meeting above mentioned refer to matters of municipal government, which are usually performed by city and village governments, and the law especially provides that in all towns in which there are incorporated cities and villages, or towns lying wholly within the limits of an incorporated city or village, the voters at the town meeting shall not exercise such of the powers above mentioned as fall within the province of the city or village government.

The Town Meeting.—The annual town meeting is held on the first Tuesday of April, and due notice of the time and place of the holding of the same is given by the town clerk. At this meeting there must be elected one Supervisor, who is also overseer of the poor, one Town Clerk, one Assessor and one Collector, and such Justices of the Peace,

Constables and Highway Commissioners as are provided for by law.

In all towns, except those of Cook County, having a population of four thousand inhabitants provision is made for the election of an additional supervisor, who is styled the assistant supervisor, and for every increase of twenty-five hundred in the population of the town the law permits the election of another assistant supervisor.

As in the New England town meeting, the presiding officer is called the Moderator, and the town clerk acts as a secretary of the meeting and keeps a faithful record of all of its proceedings.

The election of officers is by ballot, and in towns having a large population different voting places are established for the convenience of the voters in the same manner as in case of general elections, all of the election laws of the State being applicable to the election of town officers.* In communities where the citizens are subject to both town and city government, as in the City of Chicago, the election of both town and city officers takes place at the same time, so that the method of conducting a town election in that city is precisely similar to that employed in any other election. The town meeting for the transaction of miscellaneous business is held at two o'clock on the afternoon of the day of an annual meeting, and at this session all of the business of the town must be transacted.

Town Officers.—*Supervisor.*—The Supervisor of each town is required by law to receive and pay out all moneys raised for defraying town charges, except what is raised for the support of highways and bridges, which is under the control of the highway commissioners, and he is required to

*These laws are explained in Chapter XXI.

prepare and file with the town clerk annually a full and complete statement of the financial affairs of the town. He must keep a just and true account of his receipts and expenditures and account for all moneys so received by him. In all counties under township organization, except the County of Cook, the supervisor of each town attends all meetings of the county board, of which he is a member.

Clerk.—The Town Clerk has the custody of all records, books and papers of the town, and is authorized by law to administer oaths and take affidavits in all cases where town officers are required to take an oath or execute an affidavit. He keeps a record of the proceedings of all town meetings, and of all orders and directions and all by-laws, rules and regulations that are made at the meetings. He must certify annually to the county clerk the amount of taxes required to be raised for all town purposes.*

Auditors.—The Board of Town Auditors is composed of the supervisor, town clerk and justices of the peace. This board must hold a meeting semi-annually in the office of the town clerk to examine and audit the accounts of the town. At these meetings the auditors are required to examine the accounts of the supervisor, overseer of the poor and commissioners of highways for all moneys received and disbursed by them, as well as all other claims and accounts relating to the finances of the town.

Board of Health.—The Board of Health of each town consists of the supervisor, or supervisors, assessor and town clerk. With the appearance of any contagious disease in the town or immediate vicinity the board of health has power to make and enforce rules and regulations to check the

*For a description of the duties of the county clerk in tax matters see Chapter XXIII.

The duties of the Assessor and Collector are described in Chapter XXIII.

spread of such disease. Towns which are included within the corporate limits of a city do not exercise this power, because the city government has charge of all matters relating to the health of the people, except such as are within the jurisdiction of the State officers.

Highway Commissioners.—The three Commissioners of Highways in each town have charge of the roads and bridges, and it is their duty to keep the same in repair and to improve them as far as practicable. The work on the roads must be done by the best known methods of roadmaking, by proper grading and thorough draining by tile or otherwise. These commissioners have power to let contracts, to purchase tools, machinery and materials, and it is their duty to take general charge of highways throughout the town and to see that they are properly constructed and maintained.

The laws of the State of Illinois relative to the construction and maintenance of roads and bridges and the duties and powers of highway commissioners in respect thereto are too numerous to be detailed. The legislature also has made elaborate provisions for the construction and maintenance of highways in counties not under township organization. In such counties the territory, exclusive of cities and incorporated villages, is divided into road districts, each of which is made a body politic and corporate* and has its own board of highway commissioners, three in number. These highway commissioners have charge of the public highways in their respective districts.

Comparison with the New England Town. —Such, in brief, is the framework of township government as it exists in the State of Illinois and in the other States created

*The road district is another example of a quasi-municipal corporation

out of the Northwest Territory. It is substantially the form of government which was provided by the New England town meeting, with these differences, that no body of selectmen is chosen to administer the affairs of the town during the interim between town meetings, and that school affairs are not under the jurisdiction of the town meeting. With these two exceptions, the resemblance between the Illinois town meeting and the New England town meeting is complete, and generally it is found to be the best and most satisfactory method of administering the local affairs in rural communities, because through its agency the power of local government is left in the hands of the people whose interests are directly affected.

The Government of Villages. —As the population of any community increases and the territory becomes thickly settled, the village is formed and the village form of government supersedes that of the town. Any town in this State may become incorporated as a village whenever a majority of the votes at an election held for determining the question shall be in favor of such a change, and with the taking and recording of such a vote the township organization ceases and the village commences.

A village may be formed also whenever any territory not exceeding two square miles in extent shall have resident thereon a population of at least three hundred inhabitants. The method of procedure is by a petition, which must be signed by thirty legal voters of the proposed village and addressed to the county judge, who causes the question of incorporating as a village to be submitted to the legal voters. Whenever such a petition is filed in the office of the county clerk, the county judge fixes the time and place of holding an election, and if a majority of the votes cast at the election is for village organization, then the proposed village,

with the boundaries and name mentioned in the petition, becomes an organized village.

The governmental affairs of the village are committed to six Trustees, who are divided by lot into two classes, those of the first class continuing in office for one year and those of the second class for two years from the date of the first election. Annually thereafter there are elected three trustees, to hold office for the term of two years. The trustees choose one of their number as president and the village is made a body politic and corporate, and has all of the usual powers of a municipal corporation.

The board of trustees of a village has the same powers and duties as the city council of a city, and the president of the village performs substantially the same functions as the mayor of a city. The powers and duties of the president and trustees of a village will not be stated in detail at this time, for the reason that in the following chapter the government of a city will be explained, and everything therein contained as to the powers and duties of the mayor and aldermen of the city is equally applicable to the president and trustees of the village.

CHAPTER XX.

THE GOVERNMENT OF CITIES.

The system of municipal government in vogue in this country has been the least successful of all of our political institutions. The scheme of government provided by our forefathers has been satisfactory in national and state affairs, but this has not been the case in the government of cities. The problems of municipal government received but little attention from them, doubtless because they believed that the citizens of a community should have sole charge of the regulation of local affairs. Even if they had considered it a part of their duty to provide a scheme for municipal government, it is doubtful if such a scheme would now be successful, for the reason that the questions which now confront those who are charged with the administration of city affairs did not exist in the latter part of the eighteenth century.

When the Constitution of the United States took effect in the year 1789 there were no large cities in the country. The largest city was Philadelphia, which had a population of about 31,000 inhabitants. Next in size was New York, with a population of 23,000, then came Boston with a population of 18,000. These were the largest cities in the original thirteen States, and there were scarcely a dozen others with a population of 5,000 inhabitants each, so it is apparent that questions of municipal government could not have been

troublesome in those days, because it is not in small cities that the present abuses exist.

In noting the marked changes which have taken place in the conditions of city life, an eminent historian draws a vivid picture of the strange world in which Washington would find himself were he to walk the streets of one of our modern cities, when he says: "He never in his life saw a flag-stone sidewalk nor an asphalted street, nor a pane of glass six feet square. He never heard a factory whistle; he never saw a building ten stories high, nor an elevator, nor a gas jet, nor an electric light; he never saw a hot-air furnace, nor entered a room warmed by steam; he never struck a match, nor sent a telegram, nor spoke through a telephone, nor touched an electric bell; he never saw a horse car, nor an omnibus, nor a trolley car, nor a ferry boat. Fancy him boarding a street car to take a ride! He would probably pay his fare with a nickel, but the nickel is a coin he never saw. Fancy him staring from the window at a fence bright with theatrical posters, or at a man rushing by on a bicycle."*

This quotation, specifying only a few of the incidents of life in a great city, illustrates the changes which have taken place between the year 1789 and the present day, and it is these changes that have called our present municipal governments into existence. The regulation and construction of sidewalks and of buildings, and the elevators in them, the lighting of streets by gas and electricity, the supervision of street railways and of carriages, bicycles and pedestrians upon the public streets are subjects of municipal regulation which were unknown in the days of Washington.

*McMaster's School History of the United States, page 178. American Book Company, 1897.

Origin of the Modern City.—Municipal government in the United States is derived from that of English cities, having been modified from time to time as circumstances required, or seemed to require, so that the system now represents an irregular growth of over a hundred years, instead of a systematic, conservative and well defined plan, such as exists in our national and State government.

The origin of the modern city dates back to the history of England of about the eleventh century, when towns and cities began to grow in importance and received royal recognition. The government of these cities originated with the guilds, or organizations of artisans. In those times each of the different trades found it necessary to form organizations for their mutual protection. These associations soon grew to be the most important features of industrial life in the cities in which they existed. Each guild had its own guild hall and held its own meetings. The chief man of the guild was termed an alderman, and the government of the cities came to be vested in the aldermen representing the different guilds. From their own number the aldermen elected a chief executive officer, styled the Mayor. Thus the government of the modern English city began, and, like that of the town and the county, has come down to us modified to suit present conditions of life.

When the Constitution of the United States was adopted nearly all of the cities were governed on the plan of the New England town meeting, except the city of New York, which had the first city government in this country. The town meeting was satisfactory until the cities became so large that the annual meetings of the citizens were unwieldy from the number attending them, and each individual citizen could no longer have a voice in public affairs. In such a case an application would be made to the State legis-

lature asking that a charter be granted providing a scheme of government and incorporating the city as a body politic. Under such charters the people no longer controlled public affairs by their individual vote and acts, but the functions of government were performed by representatives elected by the people.

City Charters in Illinois.—Prior to the adoption of the constitution of 1870, this method of procedure was employed in the State of Illinois. The city charters granted during that period were similar in their terms and conditions, though there are considerable differences among them in details, one city being given different powers by its charter from another. To obviate this confusion in the powers of city governments, the constitution now prohibits the legislature from enacting any local or special laws incorporating cities, towns and villages. Hence the only special charters of cities which now exist in the State of Illinois are those granted prior to the adoption of the constitution of 1870. Omitting the details of these special charters, we will consider the general law of the State under which all cities are now incorporated.

Incorporation of Cities.—This law, enacted in 1872, provided that any city then in existence might be incorporated under its terms if the proposition to do this should receive a majority of the votes cast at an election called for the purpose of deciding the question.

In a similar way, a city government may be organized under this general law whenever any area of contiguous territory not exceeding four square miles in extent has resident thereon a population of not less than 1,000 inhabitants. The City of Chicago in 1875 adopted this general law for its charter in lieu of the special charter granted to it by the legislature in 1863. As this city is by far the largest and most

important in the State in population, territory, wealth and commercial interests, its departments and public offices will be taken as the basis for explaining the scheme of municipal government provided by the general laws of the State of Illinois.

The city government has a legislative and executive department, whose duties are clearly defined. It has no judicial department, except the police courts, which determine minor cases of a criminal nature.

The Legislative Department.—The power of making laws for the government of the city is vested in the city council, composed of the mayor and the aldermen, who are representatives of the different wards into which the city is divided. The wards vary in number according to the population and territorial size of the city, from three in cities having a population not exceeding 3,000 inhabitants to thirty-five, which is the largest number of wards into which any city can be divided.

The statute provides that in cities not exceeding 3,000 inhabitants there shall be six aldermen; in cities whose population does not exceed 30,000 inhabitants fourteen aldermen and two additional aldermen for every 20,000 inhabitants over 30,000; and in cities of over 350,000 inhabitants there shall be elected forty-eight aldermen and no more, unless additional territory shall be annexed to such city after the city has been divided into wards on the basis of forty-eight aldermen. When such annexation takes place and three or more square miles of territory, or from 15,000 inhabitants to 25,000 inhabitants, are annexed, then the annexed territory constitutes a ward of the city and two additional aldermen are elected.

In the City of Chicago, by reason of successive annexations, there are now thirty-five wards and consequently

seventy aldermen. This number cannot be increased, and in case of future annexations it will be necessary to redistrict the city in order to give the inhabitants of such annexed territory some representation in the city council.

Aldermen.—A person to be an alderman must be a qualified voter, and he must reside within the ward for which he is elected. He is ineligible if he is in arrears in the payment of any tax or other liability due to the city, or if he has ever been convicted of malfeasance, bribery, or other corrupt practice or crime. He must not be interested directly or indirectly in any contract to which the city is a party. He cannot hold any other office under the city government, and he must not be engaged, either individually or as a member of a firm, in any business transaction with the city, or with any of its officers, whereby any money is to be paid, directly or indirectly, out of the treasury.

Powers of the City Council.—The laws made by the city council are called ordinances, and are as binding upon the citizens as the laws of the State and nation, but no city council can enact an ordinance which in any way is contrary to the constitution or laws of the State or of the United States.

It may at first appear as if the subjects upon which a city council can legislate are few, and that the office of alderman or member of such a council is not an important one, but the contrary is the case. If we analyze the conditions of life at the present day, it will be found that a large number of matters affecting the daily welfare, happiness and health of the citizen come under the authority of a city government. So extensive are the powers of a city council that the enumeration of them requires ninety-six separate paragraphs of the statute. These powers may be generalized as follows:

1. The city government, through its council, levies all

taxes necessary for the support of the city government and directs its financial affairs.

2. It controls the police force, which is charged with protecting life and property and enforcing the laws in all sections of the city, and it establishes and maintains the police courts.

3. It supports a fire department. The necessity of the proper management of this department of the city government has been made painfully apparent in cities of the United States by a series of great conflagrations which, in many cases, have destroyed large portions of the city and inflicted an enormous loss upon public and private interests.

4. It has the care of streets, alleys and public grounds, including the regulation of the lighting by gas and electricity and the construction and control of a system of sewerage. It is important that the streets should be of uniform width, with durable pavements, good sidewalks and curbs. The question of sewerage and its proper disposal is of vital interest, because upon this largely depends the health of the people.

5. It constructs and maintains a system of water works, that all citizens in their homes and places of business may receive an ample supply of water both for drinking and sanitary purposes. The city council has the power of framing laws to provide such a system and to maintain and preserve its efficiency.

6. It protects the health of the citizens and prevents the spread of contagious diseases by the enactment of necessary ordinances and by the appointment of a Commissioner of Health, whose duty it is to enforce such ordinances and laws as may be enacted by the city council or the State legislature for protecting the health of the people.

7. It maintains city prisons as an adjunct of the police

department, in which violators of the law may be confined, until such time as their cases are heard by some competent court and they are either discharged or committed to the county and State institutions.

8. It supervises and controls the traffic in alcoholic liquors, to protect the general welfare of the community. The evils of the indulgence in and the misuse of alcoholic liquors are apparent in every community, and while the manufacture and sale of liquor is not illegal, still it is necessary to place it under restrictions.

Therefore, it is provided that any one wishing to engage in the sale of liquor, after complying with the laws of the State and the United States relating thereto, is also obliged to obtain a license from the city government. These licenses should be issued only to responsible persons, who will observe the laws governing the liquor traffic. Unfortunately, in many of our large cities these precautions are not observed and much of the crime and unhappiness connected with life in a great city can be traced to the negligence of city officials in respect to this subject.

9. The regulation of street railroads is another of the important duties to be performed by the city government. The city council can grant to companies or individuals a charter, permitting them to operate railroads upon the streets of the city.

These railroads in large cities have been enormously profitable, and frequently the company, after its right to conduct a railroad has become vested, has managed its affairs with too little regard for the comfort and convenience of the public. It is the duty of the city council in granting such charters to see that proper precautions are taken to protect the citizens. The streets are public property and persons or corporations using them for profit

should be required to pay to the city government a proper compensation for their use, and to provide suitable accommodations for the convenience of the people.

10. The city council has authority to regulate the erection of private buildings. This may seem an invasion of the right of an owner of land to erect a building of such size and style of construction as he chooses, but reflection will show that unless proper precautions are taken to erect buildings of such materials as to prevent the rapid spread of fire, and of such construction as to prevent accidents to their occupants and people passing upon the streets, and with such sanitary arrangements as will protect the health of the community, the public is likely to suffer.

11. It supervises the management of the charities, public hospitals and asylums belonging to the city.

12. It has the power to prohibit any offensive or unwholesome business or establishment within the city limits and to direct the location and regulate the use and construction of breweries, packing houses, distilleries, livery stables, blacksmith shops, soap factories and other buildings used for purposes that may be obnoxious to the citizens.

13. It can establish public libraries and reading rooms for the free use of the people and can levy taxes for the support of the same.

The foregoing are among the more important powers and duties of the city government. While not complete, this summary serves to show the complexity of life in a great city and the necessity for an intelligent management of public affairs.

The Executive Department—The Mayor.—The executive department of the city is represented by the mayor, who is the chief executive officer and is elected by the people for a term of two years. He is vested with some control

over the legislative acts of the city council, because he has the power of vetoing any measure which he may deem prejudicial to the public interest, and in case of a veto a two-thirds vote of the entire city council is required to enact the law. He must preside at the meetings of the city council, but has no vote except in case of a tie, and then he gives the deciding vote.

The mayor has the authority to appoint all non-elective officers of the city and to fill all vacancies in such offices by and with the advice and consent of the city council. This power is one of great importance, but owing to the enactment of the civil service law it has been largely curtailed, so that at the present time the right of appointment by the mayor is restricted to heads of departments and a few officers specially exempted from the operation of the civil service law.*

Upon a formal charge, the mayor can remove any officer appointed by him if, in his opinion, the interests of the city demand such removal, subject, however, to the provisions of the civil service law. He may exercise within the city limits the powers of the sheriff to suppress disorder and keep the peace. He has the right to pardon any person who has violated any of the city ordinances. He is required to perform all duties prescribed by the city ordinances, to see that the laws and ordinances are faithfully executed, to give to the city council, from time to time, information concerning the affairs of the city, and to recommend such measures as he may deem proper. In case of malfeasance in office he is liable to indictment in any court of competent jurisdiction, and on conviction he may be fined in a sum not exceeding \$1,000 and be removed from office.

*See page 203.

Other Executive Officers.—The city council may, in its discretion, provide for appointment by the mayor, with the approval of the city council, of a Superintendent of Streets, a Corporation Counsel and a City Comptroller, or any or either of them, and such other officers as the council may deem necessary for the proper transaction of the business of the city.

Taking the City of Chicago as an example, we shall consider briefly the duties of the more important municipal officers, commencing with those which are created by the general laws of the State and afterward considering those that have been created by the city council.

Clerk.—The City Clerk has the custody of the corporate seal of the city and all papers belonging to the city: He must attend all meetings of the city council, keep a record of its proceedings and furnish certified copies of the same whenever required. In a book specifically prepared for that purpose, he records all ordinances passed by the city council and upon it must make a memorandum of the date of the passage and other proceedings necessary to show that the ordinance has been legally adopted by the city council.

Treasurer.—The City Treasurer is required by law to receive all moneys belonging to the city, and to keep his accounts in such a manner as the city council may prescribe, which accounts are always subject to the inspection of any member of the city council. Every person paying money into the treasury receives from him a receipt specifying the date and purpose of payment. He is obliged to furnish a monthly statement of the financial affairs of the city and to keep all moneys belonging to the city on deposit as directed by ordinance. He can pay out money only upon warrants drawn upon him, which must be signed by the mayor and countersigned by the city comptroller.

The *City Attorney* is required to assist the corporation counsel and to perform such legal duties as may be required of him by the city council or any of its committees. He must keep a proper record of all actions in court in which he appears, and in which the city is a party, and of all proceedings in such suits. The city attorney takes charge of those actions which are brought in great numbers every year to recover damages for personal injuries occasioned by defective sidewalks, streets and public buildings. He is elected by the people at the same time as the mayor, treasurer and clerk.

Collector.—The City Collector receives certain moneys which are due to the city from license fees paid by saloon-keepers, peddlers, brokers and others. He must turn over his receipts daily to the city treasurer. He also collects special assessments levied by the city for street improvements, as paving, sewers, lamp-posts and sidewalks.

Comptroller.—The City Comptroller exercises a general supervision over all the officers of the city who are in any manner charged with the receipt, collection or disbursement of the revenues of the city; he has the custody and control of all deeds, leases, warrants, vouchers and papers of any kind which are not in charge of other officers.

He must submit annually to the city council a report of his estimates of the money necessary to defray the expenses of the city government during the year, and he is also required to perform such other financial duties as may be imposed upon him by the city council. All orders on the city treasurer for the disbursement of money must be countersigned by the comptroller. In cities which have no comptroller these duties are performed by the city clerk. The treasurer, comptroller and clerk, together with their

assistants and clerks, constitute the *financial department* of the city government.*

Civil Service Commission.— The civil service law was passed by the legislature in 1895, for the reason that the vesting of the power to appoint the thousands of public officers in the City of Chicago to their respective positions was too important to the welfare of the city and the proper management of its interests to be confided to one person. Prior to the enactment of this law, it had been more or less customary for each mayor upon his accession to office to remove a large portion of the employees of the city and to appoint others to these positions, the appointees being largely chosen from the political party of which the mayor happened to be a member. Consequently it followed that no city officer had a certain tenure of office and that a large majority of the employees were likely to be changed every two years. Considering the magnitude of the business transacted by the city and the necessity of obtaining officers and clerks possessed of ability and experience, these frequent changes were, undoubtedly, detrimental. In fact, the same considerations which have prompted the enactment of a national civil service law apply with equal force to the civil service of cities.

The civil service law created a Civil Service Commission composed of three members, no more than two of whom at the time of their appointment can be members of the same political party, and none of these commissioners can hold any other lucrative office or employment either under the United States, the State of Illinois or any municipality. The commissioners are appointed by the mayor. It is their duty to classify all offices and places of employ-

*See page 204.

ment in the city with reference to the examinations of applicants for such positions.

The offices and places so classified by the commission constitute the classified civil service of the city, and no appointments to any of these positions can be made except under the provisions of the civil service law. All applicants for such positions are required to take an examination which must be public, competitive and free to all citizens of the United States, subject to such limitations as to residence, age, health and moral character as the commissioners may specify by their rules. These examinations must be practical in their character and relate to those matters which test the relative capacity of the persons examined to discharge the duties of the positions to which they seek to be appointed, and include tests of physical qualifications, health and manual skill. No questions can be asked which relate to political or religious opinions or affiliations.

Whenever the head of any department in the city government notifies the civil service commission that any position in the classified civil service is vacant, the commission must certify to the appointing officer the name and address of the candidate standing highest upon the list of those who have passed the proper examination for such a position, and the officer whose duty it is to make an appointment is required to appoint the person certified to him by the commission. In this way the question as to who shall fill a particular place in the city government is settled solely by competitive examinations, and presumably the best qualified person is appointed to the office.

The person so appointed holds his office for a short period upon probation, during which time he may be discharged with the consent of the commissioners, but after the period

of probation has passed no employee in the classified civil service can be discharged unless charges in writing against him have been filed with the commissioners. In case such charges are filed, it is the duty of the commissioners to hear and determine the same and their decision is final.

The classified civil service of the city includes all the officers of the city, with the exception of those who are elected by the people, those who are elected by the city council pursuant to the city charter, those whose appointment is subject to confirmation by the city council, judges and clerks of election, members of the board of education, the superintendent and teachers of schools, heads of any principal department of the city, members of the law department and one private secretary to the mayor. With these exceptions, the appointment to all offices and places of employment in the city must be in accordance with the provisions of the civil service law.

Departments and Their Officers.—The foregoing are the only officers specifically mentioned by the law of the State governing the administration of city affairs, but the city council has the power to create such other officers and places of employment as it may deem necessary and expedient for the proper transaction of public business. It also fixes the compensation of the persons filling the offices so created, defines their duties and limits their terms of office, which cannot exceed two years.

Under this power the city council of every city finds it necessary to act, and the number of offices created will depend necessarily upon the size of the city, which determines the volume of public business to be transacted.

The City of Chicago will be taken as an example, because, for reasons already stated, its government illus-

trates the powers which may be exercised by city officers more completely than that of any other city in the State. This city expends annually for municipal purposes more than \$16,000,000, and it is apparent that a large number of officers and employees are needed for the purpose of disbursing this money wisely and economically and properly conducting the numerous branches of public work for which it is expended. The business of the city, like that of the national government, is divided into departments, each of which has a chief officer and numerous subordinates, for whose conduct he is responsible.*

The Department of Public Works, as its name indicates, has charge of the various public grounds, buildings and streets of the city. The Commissioner of Public Works is the chief officer of the department, and it is his duty to take special charge of all of the public grounds of the city, including streets, sidewalks, parks and other tracts of land belonging to or under the control of the city.

The public buildings of the city, such as the city hall, police stations, engine houses and pumping stations, and the various electric-lighting plants owned by the city, are under his control. All street improvements come within the scope of his department, and he must supervise expenditures of money for any of the objects above named. This important department, with its numerous ramifications, is divided into various bureaus, each of which is under the charge of a chief officer, who is accountable to the commissioner of public works.

The more important of these officers are the City Engineer, who prepares the plans and has general supervision of the buildings and repairing of bridges, water works, the

*The Department of Finance has already been described. See page 201.

laying of water pipes and the construction of viaducts, and all other public work requiring engineering skill; the Superintendent of Streets, who directs the work of improving and repairing streets, alleys and sidewalks; the Superintendent of the Water Office, who has charge of the collection of water taxes which the city council levies upon citizens for the use of the municipal water system; the Superintendent of Sewers, who supervises the construction of the sewer system of the city and all repairs and alterations in the same; the Superintendent of Maps, who keeps a record of all maps and plats of ground in the city and of the numbering of houses and other buildings upon the various streets.

The Building Department.—The head of this department is the Commissioner of Buildings, and it is his duty to see that all ordinances relating to the construction of buildings and of elevators are properly enforced, as well as ordinances preventing destructive fires. He is required to inspect all public buildings in the city, such as school-houses, churches, theaters and factories, to ascertain whether or not they are properly constructed and maintained, and to see that suitable provisions have been made for the escape of persons from them in case of fire.

The ordinances of the city require that workshops and factories shall be properly ventilated, have suitable sanitary appliances and that their heating apparatus must be in a safe condition at all times. It is the duty of the commissioner of buildings to see that these laws are enforced. A number of inspectors are employed in this department, who must be competent to judge whether or not buildings and elevators in them are properly constructed and kept in a safe condition.

The Department of Law includes the Corporation Coun-

sel, the City Attorney, Prosecuting Attorney and their assistants. The principal officer of this department is the corporation counsel, who is appointed by the mayor and who holds his office for the term of two years. He has the power of appointing all assistants and clerks in his office, and all officers in the law department are expressly exempted from the operation of the civil service law. It is his duty to superintend, and, with the assistance of the City Attorney and the Prosecuting Attorney, to conduct all the law business of the city; to prepare such ordinances as are required of him by the city council and all legal documents needed in connection with the transaction of the city's business. He is also required to furnish written opinions upon subjects submitted to him by the mayor or the city council or any department of the city government.

*The Prosecuting Attorney is appointed by the mayor, with the advice and consent of the city council, and it is his duty to prosecute all actions for the violations of the ordinances of the city.

Police Courts.—These courts are held by certain justices of the peace, who are designated by the mayor for that purpose and are called Police Magistrates. They hold court at different police stations in the city of Chicago, and all persons arrested by the police are tried before a police magistrate. If the person is charged with an offense within the jurisdiction of a justice of the peace he is tried and fined for his offense, but if the crime with which he is charged is of greater magnitude than the law allows justices of the peace to hear and determine, he is then committed to jail to await the action of the grand jury. Prisoners who are fined by police magistrates are committed

*The duties of the City Attorney have been described heretofore. See page 200.

to the house of correction, unless the fine is paid, for varying terms, according to the amount of the fine imposed.

The clerks and bailiffs of police courts are also appointed by the mayor, with the advice and consent of the city council. The clerk, as in other courts, is required to keep a record of the proceedings of the court and to make a report of the same to the comptroller and to pay over to the treasurer all moneys received from fines.

House of Correction.—The House of Correction, which is a prison maintained by the city government and is commonly known as the Bridewell, is under the control of a Board of Inspectors composed of three members, who are appointed by the mayor. There is a superintendent of the House of Correction, who is appointed by the mayor, and must reside at the institution and give all of his time to its affairs. Prisoners who are committed by police magistrates to this prison for non-payment of fines are required to work at some kind of labor and are allowed a credit of fifty cents for each day's work, to be applied on the payment of their fines. When an amount has been earned equal to the fine and the costs of suit, the prisoner is discharged.

The Department of Health includes the offices of Commissioner of Health, Superintendent of Police, City Physician, and such other assistants and employees as the city council may prescribe. The officers above named are appointed by the mayor, but the appointment of the subordinate officers of the department is in control of the civil service commission.

It is the duty of the commissioner of health, who is the head of the department, to exercise a general supervision over the sanitary condition of the city, and for that purpose to employ the necessary inspectors and sanitary policemen. He must adopt proper measures to arrest the progress of

malignant, contagious and pestilential diseases, and to see that all laws of the State and ordinances of the city in relation to sanitary matters are enforced.

It is an office of the greatest importance to the welfare of the people, and consequently the head of the department is vested with great powers which he can exercise in case of necessity, such as quarantining boats and railway trains and compelling the vaccination of persons in proper cases. He also has authority to enter houses or other buildings and cause them to be cleansed, disinfected or closed, if necessary, to prevent the spread of contagious diseases. He has charge of the city hospital, which is maintained for the proper care of persons who may be committed to it.

The City Physician is required to give proper medical attention to patients in the city hospital, police stations and city prisons, and render whatever assistance may be required of him by the commissioner of health.

The Department of Police includes the Superintendent of Police, who is the head of the department; a Secretary to the Superintendent, and one Captain of Police for each of the police districts into which the city is divided, and such number of inspectors, lieutenants, detectives, sergeants and patrolmen as may be prescribed by the city council.

The superintendent or chief of police is appointed by the mayor, with the advice and consent of the city council, but the appointment of all other police officers is under the control of the civil service commission. It is the duty of the police department to protect, at all times, the rights of persons and property, and to preserve peace and order throughout the city, and to see that all laws of the State and all ordinances of the city are properly enforced. The duties of police officers are so numerous that it is impossible to enumerate them except in this general way. The

mayor is the head of the police force, but its actual control is vested in the chief of police.

The Fire Department includes a large number of officers. The head of the department is the Fire Marshal, who is appointed by the mayor, and holds office for a term of two years. There are also a number of assistant fire marshals, captains, lieutenants, engineers, pipemen, drivers, truckmen and telegraph operators, as well as a Superintendent of the City Telegraph.

The fire marshal has absolute control of all of the officers and members of the department, and it is his duty to take such measures as will protect the citizens from loss by fire. To accomplish this, he is vested with extraordinary powers, and can cause the removal of any building whenever it shall become necessary to prevent the spread of fire, and can destroy any building or other structure for that purpose, and, if necessary, cause the same to be blown up with powder or otherwise during the progress of the fire.

The fire marshal and his assistants are also vested with police powers, and can arrest any disorderly person during the time of a fire and for a period of thirty-six hours after its extinction. It is the duty of the fire marshal to investigate the causes of fires and find the value of the property destroyed, and, if possible, to ascertain whether a fire was due to accident or to the act of an incendiary.

The superintendent of the city telegraph has charge of all of the telegraph apparatus and work done in connection with the operations of the police and fire departments of the city.

Various Inspectors.—There are several branches of industry conducted in a great city, which, unless precautions are taken, might result in great damage to property

and life. It is, therefore, the duty of the city government to arrange for the proper inspection of such kinds of business, and the mayor has the power to appoint inspectors for that purpose. Under this power he appoints the Inspectors of Steam Boilers, the Inspector of Gas Meters, the Inspector of Fish, the Inspector of Oil and the Inspector of Weights and Measures. These inspectors see that persons carrying on business with the articles mentioned so conduct their affairs as not to endanger either the life, health or property of the citizen.

The Public Library is established under ordinances of the city council, which have been passed pursuant to the provisions of the laws of the State. These laws authorize any city, town or village to establish a free public library and to levy a tax to support it. The Public Library and Reading Room of the City of Chicago is under the control and management of a board of nine directors, who are appointed by the mayor and confirmed by the council. These directors have sole charge of the management of the library and the expenditure of the money raised by taxation for its support. They appoint the librarian and assistants and make all rules relating to the government of the library.

Parks and Boulevards.—The principal parks and boulevards in the City of Chicago are under the control of different Boards of Park Commissioners, existing under acts of the legislature. Lincoln Park and the boulevards connected with it are under the charge of the Lincoln Park Commissioners, who are appointed by the governor and confirmed by the senate. The West Park Commissioners are appointed in the same way. They have charge of the

NOTE.—The School Department of the City exists under the General School Law of the State, and therefore its operation will be explained in a subsequent chapter devoted to educational matters. See Chapter XXII.

parks and pleasure drives in the West Division of the city. Under a different law, the South Park Commissioners are appointed by the judges of the circuit court of Cook County. This board has control of the parks in the South Division of the city.

All of these park boards are municipal corporations separate and distinct from the county, city or town in which the parks and boulevards are situated. They have all powers necessary to enable them to establish and maintain parks and boulevards, including the power to exercise the right of eminent domain* and to levy special assessments for improvements and compel payment of the same by the persons whose property is benefited thereby. The expense of maintaining the parks and boulevards is paid by taxes levied by the proper authorities of the different municipalities in which they are located.

Sanitary District of Chicago—This is another municipal corporation, created by the laws of the State, existing within the same territory as the City of Chicago and other municipalities, but having a separate and independent existence. The district was organized for the purpose of establishing and maintaining a drainage system by which the sewage from the City of Chicago may be diverted from the waters of Lake Michigan and carried by a common outlet into the Illinois River and thence to the Mississippi River. In furtherance of this object, an enormous canal has been constructed from the South Branch of the Chicago River to the Desplaines River, which is to be filled with water from Lake Michigan. The canal has been made of such size and constructed in such a manner that the water from the lake will pass through it at the rate of 300,000 cubic

*This right is explained in Chapter XXIII.

feet per minute, with a current flowing at a rate not exceeding three miles per hour.

The construction of this canal is considered one of the great engineering achievements of the age, and the total cost of the work is estimated at about \$33,000,000, all of which has been raised by taxation of the people of the district.

The affairs of the district are under the control of nine Trustees elected by the people and holding office for a term of five years.

CHAPTER XXI.

ELECTION LAWS.

In any democratic form of government, founded upon the principle that the government derives all its powers from the consent of the governed, there are many questions which must be submitted to and decided by the votes of the people. All the important executive and judicial officers of the State and its subdivisions, members of the legislature, county commissioners and city councils are elected by the people. Many governmental propositions, such as the adoption of township organization by counties, the incorporation of villages or cities, the annexation of territory to municipalities, the issuing of bonds by counties or school districts, and amendments to the constitution of the State must be ratified by a vote of the people before they become operative.

Therefore, the method of conducting elections, the qualifications of the voters, and the various regulations pertaining to the exercise of the right of suffrage or the elective franchise are matters of prime importance to the citizens of the State.

The right of voting is one of the most valuable prerogatives of citizenship, and the duty of voting and taking part in public affairs should never be neglected by patriotic citizens.

Citizens and Voters.—The mistake must not be made of supposing that every citizen has the right to vote. The

laws of Illinois restrict the exercise of the right of suffrage to those male citizens of the United States above the age of twenty-one years who have resided in the State one year, in the county ninety days and in the election district thirty days next preceding the election.*

The term "citizen" is very often misunderstood. A citizen is a person who is a member of a free state, and while it is true that all voters must be citizens, it is not true that all citizens are voters. All persons who are born within the State, regardless of age or sex, are citizens; persons born in other countries may become citizens by complying with the laws relating to naturalization.** In the United States all persons born or naturalized in the country, and subject to the control of its government, are citizens of the United States and of the State in which they reside. This does not include Indians on reservations, who are treated as a foreign people residing within our borders and preserving their original tribal form of government.

The election laws of the State minutely provide for the registration of voters, the receiving and recording of the votes, and certifying and declaring the results of elections. We will consider first the general law relating to the subject, which applies to all parts of the State, and, secondly, the special law relating to the holding of elections in cities, villages and incorporated towns.

GENERAL ELECTION LAW OF ILLINOIS.

This law specifies the officers to be chosen by the votes of the people of the State, their term of office and the time of holding the election in each case. This list in-

* As to the right of women to vote at school elections, see page 244.

** See page 64.

cludes all officers mentioned in the preceding chapters, except those who receive their positions by appointment.

Precincts.—For the purpose of holding elections the State is divided into election precincts. In counties under township organization each town constitutes an election precinct, but towns may be divided into two or more precincts. In counties not under township organization the territory is divided into election precincts by the board of county commissioners. It is not desirable that more than four hundred and fifty persons should vote at one place, hence all precincts which contain more than four hundred and fifty voters are divided into election districts, so that each district shall contain as nearly as may be practicable four hundred voters, thus requiring a frequent rearrangement of election districts.

Polling Place.—There must be one polling place in each district, located upon the ground floor and in the front room of a building, with entrance from a public street at least forty feet in width, and as near the center of the voting population of the district as is practicable. In no case shall an election be held in any room used or occupied as a saloon, billiard hall, bowling alley, or in any place of resort for idlers and disreputable persons.

Judges and Clerks.—Three judges of election are appointed by the county board to superintend the election in each precinct or district and to see that the law relating to the holding of elections is strictly observed. A person to hold the office of judge of election must be of fair character, approved integrity, well informed, able to read, write and speak the English language, and who has resided in the election district for one year before the election and is entitled to vote therein. The judges of election choose

three persons who have qualifications similar to their own to act as clerks of the election.

The Election.—A notice of the holding of any general election must be given by the county clerk at least thirty days before the time of holding the election, and copies of this notice must be posted in three of the most public places in each district. The polls are open at the hour of eight o'clock in the morning, and continue open until seven o'clock in the afternoon of the same day.

Before any ballot is deposited in the ballot box, the box must be publicly opened and exhibited, and the judges and clerks shall see that no ballot is inside, after which it is locked and the key delivered to one of the judges, and the box must not be opened again until after the close of the polls. Each clerk of the election is required to keep a poll list containing the names of each person voting in regular succession. The voting is done by ballots, which are written or printed, or partly written and partly printed, upon blank paper, with the name of each candidate voted for and the title of the office, and contain the names of all candidates for which the elector intends to vote.

Counting the Votes.—Upon the closing of the polls the judges canvass the votes, and the clerks make a record of the number of votes which each candidate has received. When the votes have been examined and counted the clerks are required to make certificates of the result, which are signed by the judges of election. One such certificate is delivered to the county clerk, another mailed to the secretary of state, and another deposited with the town clerk in the case of counties under township organization, and in other counties the third list is retained by one of the judges.

Within seven days after the closing of the election the

county clerk of each county, with the assistance of two justices of the peace of the county, open the returns and make abstracts of the votes, and when this has been done the county clerk is required to issue certificates of election to the various candidates having the highest number of votes for the several county offices. In the case of candidates for State offices, the county clerk sends a complete abstract of votes to the secretary of state, to be canvassed by other officers, as required by law in each case.

Miscellaneous Provisions.—The law also contains numerous provisions for the prevention of fraud or improper conduct either on the part of the voters or the judges or clerks of election, or other persons who may be interested in the result of the election. The object of these laws is to obtain, by means of an election, a full, free and fair expression of the wishes of the voters upon the questions submitted to them; to prevent any attempts to influence the will of the individual voters by bribery, intimidation or other corrupt practices, and to secure a fair and honest count of the ballots after they have been cast.*

If all citizens thoroughly understood their rights and duties with reference to the elective franchise, such laws would probably be unnecessary, but, unfortunately, the history of election proceedings has shown that the contrary is the case.

REGISTRY OF VOTERS.

It is of prime importance that the elective franchise be exercised by none but qualified voters, and, therefore, the legislature has enacted a general law for the registry of electors and to prevent fraudulent voting. By this law the judges of election in each precinct or district are con-

*See Chapter XLVI, Revised Statutes, Secs. 79 to 93.

stituted a board of registry for the district, and are required to meet on Tuesday, three weeks before the election, and make a register of all persons qualified to vote at the ensuing election.

The register must contain a list of the persons entitled to vote, alphabetically arranged, showing in one column the name, and, in another column, in cities, the residence by the number of the dwelling house and the name of the street, or other location of the dwelling place of each person. One copy of this register is filed with the proper municipal officer; another is kept by one of the judges for revision, and a third copy is posted in a conspicuous place where the last preceding election in the district was held. A second meeting of the board must be held before the election, for the purpose of revising, correcting and completing the lists.

After the registry has been revised and corrected the board must make two copies of the same, one of which is filed in the office of the town or city clerk, and the other is delivered to the judges of election, to be preserved for use on election day. Two of the judges must be present on the election day and check the name of every voter voting in the district whose name is on the register. No vote can be received if the name of the person offering to vote is not on the register, unless such person shall furnish his affidavit in writing, showing that he is entitled to vote, and prove the fact further by the oath of a householder and registered voter of the district. This process is ordinarily called "swearing in a vote."

The clerk of the election is required to enter on the poll list, which is simply a list of voters kept by him, opposite the name of each person voting, the same memorandum as is required to be entered on the registry list, and every

elector, at the time of offering his vote, must truly state his place of residence.

Any person who shall cause his name to be registered in more than one election district, or who shall cause his name to be registered, knowing that he is not a qualified voter in the district, or who falsely personates any registered voter, is liable to punishment by imprisonment in the State prison for not less than one year.

The foregoing are the main provisions of the general election law under which elections are held in all parts of the State, except in those municipalities which have adopted the provisions of an act, originally passed in the year 1885 and subsequently amended, to regulate the holding of elections in cities, villages and incorporated towns of this State.

ELECTIONS IN CITIES, VILLAGES AND INCORPORATED TOWNS.

This law may be adopted by the electors of any city, village or town in this State, provided a majority of the votes cast at an election to be held for the purpose of submitting to the voters the question of adopting the provisions of the act shall be in favor of its adoption. The City of Chicago and other important places have availed themselves of the privilege, and have, by the votes of the people, abandoned the general State law and adopted this act, because the provisions of it are more likely to insure purity and honesty in elections than those of the general law, particularly in populous communities.

Election Commissioners.—In every city adopting this act there is created a Board of Election Commissioners, composed of three members, appointed by the county court. Two of these commissioners, at least, shall always be selected from the two leading political parties of the State,

one from each of those parties ; they shall be legal voters and householders, residing in the city, and men of well-known political convictions, of approved integrity and capacity.

The board of election commissioners is organized by choosing one of their number as chairman and one as secretary. They must at once secure an office suitable for the transaction of their business, which office shall be kept open every day during business hours, except Sundays and holidays. It is the duty of the board to provide all necessary ballot boxes and all registry books, poll books, tally sheets, blanks and stationery of every description, which are needed for the registry of voters and the conduct of elections.

Precincts.—Within two months after the organization of the board, it is its duty to divide the city into election precincts, each of which shall contain, as nearly as practicable, three hundred actual voters, the basis on which the division is made being the number of votes cast at the previous presidential election. The precincts are subject to rearrangement at stated periods.

Registration.—After the first organization of the board of commissioners, it must prepare for a new and general registration of voters for the next general election to be held in the city. At least sixty days prior to such an election, the commissioners are required to select as judges of election three electors in each precinct. The persons so selected must be citizens of the United States, legal voters of good repute and character, who can speak, read and write the English language, and skilled in the four fundamental rules of arithmetic. Two clerks for each precinct must also be selected by the commissioners within the same time, who are required to possess substantially the same qualifications

as the judges. In a similar manner judges and clerks are selected for subsequent elections.

It is also the duty of the board of commissioners to appoint the place of registry and the polling place in each precinct in the city, to give public notice thereof, to cause the place to be warmed, lighted and cleaned; the place so selected in each precinct shall be in the most public, orderly and convenient portion thereof, and must not be in a building in which intoxicating liquor is sold.

How the Register Is Made.—The judges of election constitute the Board of Registry in each precinct, and, with the election clerks, are required to make a general registration of all voters in the precinct in every year in which a congressional election occurs, and just prior thereto. The first day of such registration is on Tuesday, four weeks preceding the election, the second day of registration being Tuesday, three weeks before the election. The election commissioners must furnish to the board of registry three books, two of which are prepared substantially as shown at the top of the following page.

The third book is called the Public Register, and contains only two columns, headed Residence and Name. The public register must be hung up on or before noon of the following day at the place of registration, so as to be accessible to the public during all business hours. At the second meeting of the board of registration all qualified voters who have for any reason failed to register at the first meeting, may appear and demand that their names be placed upon the list.

A study of the following sample page of a registry book will show the nature of the inquiry which must be made by the judges to determine whether or not a man is entitled to vote:

REGISTER OF VOTERS.....

RESIDENCE.	ADDRESS.	NATIVITY.	TERM OF RESIDENCE.			Native.	Naturalized.
			Precinct.	County.	State.		
240 Ohio St.	Ames, John J..	Iowa	6 mos.	2 yrs.	10 yrs.	Yes
205 Ontario St. ...	Allen, John....	England...	3 mos.	3 yrs.	5 yrs.	Yes
150 Dearborn Ave.	Austin, George	Georgia...	3 days	5 yrs.	6 yrs.	Yes	...
131 Clark St.....	Mueller, Jacob.	Germany ..	2 yrs.	6 yrs.	6 yrs.	Yes

Verification Lists.—The election commissioners must furnish the board of registry in each precinct a blank book, called Verification Lists.

The names of all registered voters must be transferred by the clerks to the left-hand page of the verification lists, and it is the duty of the clerks of election, upon the Wednesday and Thursday following the second day of registration, to canvass the precinct, calling at each dwelling house where any one may reside, as indicated in the verification lists, and ascertain whether or not the person claiming the right to vote resides at the place stated, and if the canvass discloses that there are any persons on the register who do not live at the places stated, a notice is sent to said person, requiring him to appear before the board of registry upon

PRECINCT.....WARD.

DATE OF NATURALIZA- TION PAPERS.	COURT.	By Act of Congress. Qualified Voter.	DATE OF APPLICATION FOR REGISTRY.	Why Disqualified. Erased.	Restored.	By Commissioners. By Court.	Vote Challenged.	REMARKS.
-----	-----	Yes	Oct. 5, 1885					
May 27, 1871	Superior, N. Y.	Yes	Oct. 5, 1885					
-----	Not known	No	Oct. 12, 1885					
July 1, 1868	Baltimore	Yes	Oct. 12, 1885					

the Saturday following, and show cause why his name should not be erased from the register.

On the right-hand page of the verification lists the canvassers must write down the names of persons living at the various dwelling places who are not registered voters. This list of non-registered voters is used as the basis for jury lists, the persons selected for jury service being taken from this list until it is exhausted.*

Each page of the verification lists is ruled in three columns, and the left-hand page marked as follows:

*Citizens frequently seek to evade the duty of serving on a jury; therefore the law imposes this duty first upon non-registered voters, for the purpose of encouraging a full registration. By registering for election purposes, a citizen is much more likely to escape jury service than would otherwise be the case.

REGISTERED NAMES.

Street Number.	(Name)..... Street.	Names.
	<i>J. J. Wilke</i>	
<i>2</i>	<i>109 S. Hike</i>	

And the pages on the right-hand side shall be marked thus :
NAMES NOT REGISTERED.

Street Number.	(Name)..... Street.	Names.

The board of registry must also hold a third meeting on the Saturday following the Tuesday three weeks preceding the election for the sole purpose of revising their register, but at this meeting no new name can be added.

At every election held between the general registrations already mentioned the registry list shall be revised in each

precinct, on Tuesday, three weeks preceding the election, at which time additional names may be added to the list. These registration lists must be returned to the board of election commissioners and kept by them until required for use on election day. On election day two registers, together with the ballot-box for each precinct and all necessary poll books, blanks and stationery, are delivered to the judges of election.

The Election.—The polls are open at 6 o'clock in the morning and continue open until 4 o'clock in the afternoon. During all of this time the judges and clerks must be present, an absence of more than five minutes at any time being forbidden. Before voting begins the ballot box must be opened and shown to those present to be empty, and must not be removed from public view from the time when it is shown until after the close of the polls. Each of the clerks of election shall keep a poll book, which contains a column headed "Number," another headed "Residence" and another headed "Names of Voters," and the name of each of the electors voting shall be entered upon each poll book by the clerks in regular succession.

Counting the Vote.—Immediately after the polls are closed the judges of election in the different precincts begin to canvass the votes cast and the canvass cannot be adjourned or postponed until it has been completed. The process of counting the ballots is provided in detail by statute, and the most explicit arrangements have been made to prevent a false count in the case of any candidate or proposition submitted to vote.

When the canvass has been completed and the poll clerks have announced to the judges the total number of votes received by each candidate, each of the judges of election in turn must proclaim in a loud and distinct tone of voice

the total number of votes received by each person voted for in the precinct and the number of votes for or against any proposition submitted at the election.

Stating the Result.—The judges of election are required to make and sign quadruple statements of the result of the canvass, one of which is placed in each of the poll books used at the election. The statement is made to show a full compliance with the provisions of the law in the holding of the election and its result. Each of the statements, except those contained in the poll books, shall be inclosed in an envelope and sealed up, and the judges and clerks of election must write their names across every fold at which the envelope, if unfastened, could be opened. One of the envelopes shall be directed to the county clerk and one to the city comptroller. In a similar manner the tally-sheets are inclosed in separate envelopes, one being directed to the election commissioners and the other to the city clerk.

The poll books and the statements contained in them are placed in the ballot box, and the ballot box is then locked, the key removed, the box sealed, and a slip of paper containing the names of the judges of election is pasted over the keyhole and upper lid of the box in such a way that if the box is opened it will tear the paper and mutilate the signatures of the judges. The ballot box and its contents are then delivered by one of the judges of election to the election commissioners, and one of the judges representing the political party opposed to that of the judge who takes the ballot box is required to receive and hold the key to the box. Each of the statements of the vote and the tally-sheets are delivered by different judges and clerks to the person designated by law to receive the same.

The Official Count.—Within seven days after the close of the election the canvassing board, which is composed of

the election commissioners, the county judge and the city attorney, open all returns and make abstracts or statements of the votes. It is the duty of this board of canvassers to add and declare the result of every election held within the boundaries of the city or village, and the county court shall, thereupon, enter of record such abstract and result and a certified copy of this record is filed with the county clerk, who issues the certificates of election in the same manner as has been described in the general election law of the State.

The law contains provisions for the prevention of fraud in the registration of voters and improper or fraudulent conduct at elections. It provides for the proper punishment of every kind of fraudulent practice in connection with elections.*

THE AUSTRALIAN BALLOT.

In 1891 the legislature of the State, to still further promote honesty and purity in holding elections, enacted a law for the printing and distribution of ballots at public expense and for the nomination of candidates for public offices, to regulate the manner of holding elections and to enforce the *secrecy of the ballot*. This system is called the Australian system, because it is a modification of a plan which was first used with favorable results in Australia.** The principal merit of the law is that it enables a voter to cast his ballot in a secret manner so that no person other than himself can tell for whom he votes.

*See Chapter XLVI, Revised Statutes, Secs. 255 to 276.

**This system was first proposed by Hon. Francis S. Dutton, a member of the legislature of South Australia. It was embodied in the laws of Australia in 1857, and its principal features have been adopted in Canada and many of the States of the United States. See Peterman's Elements of Civil Government, Chapter XIX, which contains an excellent account of the system as used in different States.

Prior to the enactment of this law it was customary to have ballots printed for the candidates of the different political parties, varying somewhat in form or in the texture or color of the paper used, so that a careful watcher could ascertain what ticket was voted by the different voters. Under the Australian system all of the ballots are exactly alike, and each ballot contains the names of all candidates before the people. The secrecy of the ballot is desirable, because with a secret ballot, bribery is discouraged, there being no means of knowing whether or not a corrupt voter votes as he has promised to do.

Ballots.—This law provides that in all elections for public officers, except school officers and officers of road districts, the voting shall be by ballots printed and distributed at public expense. The printing and delivery of the ballots and other necessary stationery must be paid for by the several municipalities in which the election is held.

Nominations.—Any convention of delegates representing a political party which, at the general election next preceding, polls at least two per cent of the entire votes cast in the State or the municipality for which the nomination is made, may make one nomination for each office to be filled at the election, by causing a certificate of nomination to be duly filed. This certificate must contain the names of the candidates and specify the office for which each is nominated, the party or political principles which they represent, their places of residence, with the street and number. In case of an election for President or Vice-President of the United States the certificate may contain the names of the candidates for those offices.

Other nominations may be made by the voters of the State by nomination papers signed in the aggregate for each candidate by not less than 1,000 qualified voters of the State.

These certificates of nomination must be filed, in the case of candidates for offices to be filled by the electors of the entire State, or any part thereof greater than a county, with the secretary of state, at least thirty days prior to the election. Other certificates for nomination of candidates shall be filed with the county clerk within the same time, and, in case of the nomination of candidates for offices in cities, villages and towns, the certificates must be filed with the clerks of those municipalities respectively.

The Official Ballot.—The names of all candidates so nominated who are to be voted for in each election precinct or district shall be printed on one ballot, which is called the "official ballot." The kind of paper to be used and the size and style of type are all specified in detail by the law, and, as near as practicable, the ballot must be in the following form :

o DEMOCRATIC.	o REPUBLICAN.	o PROHIBITION.
For Governor	For Governor	For Governor
■ JOHN M. PALMER.	□ JOSEPH W. FIFER.	□ DAVID H. HARTS.
For Lieutenant Governor	For Lieutenant Governor	For Lieutenant Governor
■ ANDREW J. BELL.	□ LYMAN B. RAY.	□ JOS. L. WHITLOCK.
For Secretary of State	For Secretary of State	For Secretary of State
□ NEWELL D. RICKS.	■ I. N. PEARSON.	□ JAMES R. HANNA.

Whenever a constitutional amendment or other public measure is proposed to be voted upon a separate ballot is provided, which is substantially as follows :

Proposed amendment to the constitution giving judges a life term of office and making them appointive.	YES.	X iii + 100
	NO.	0 + 1

Voting.—In every polling place a sufficient number of booths must be provided, which shall be furnished with the

necessary pens and stationery, and every voter is required to enter one of these booths to prepare his ballot, free from the observation of all persons.

Any person who desires to vote presents himself before the judges and gives his name and residence. Thereupon one of the judges announces the same in a loud and distinct tone of voice, and if the name of the voter is found on the register the judge gives the voter one, and only one, ballot, on the back of which the judge shall indorse his initials.

The voter, on receipt of his ballot, immediately retires alone to one of the voting booths and prepares his ballot by making in the appropriate margin or place a cross [X] opposite the name of the candidate of his choice for each office to be filled, and, in case of a question submitted to the vote of the people, by making in the appropriate margin or place a cross against the answer he desires to give; provided, however, if he desires to vote for all of the candidates of one political party, he may place such mark in the circular space opposite the name of such political party.

Before leaving the voting booth, the voter must fold his ballot in such a manner as to conceal the marks he has made on it. He then emerges from the booth and gives the ballot to the judge in charge of the ballot-box, who places it in the box.

Such in substance is the method of voting under the Australian system, and in every community where it has been introduced its workings and results have been satisfactory, so that now it is doubtful if the system will ever be changed.

Primaries. — In the broadest sense of the term, these are elections held by a political party, or by any voluntary political association, for the purpose of choosing delegates to political conventions, members of various managing committees of the party, and sometimes for the nomination

of candidates for public office. Under the general law of the State, such an election may be held in the manner provided by the rules of the party holding it, or it may be conducted according to the requirements of the "Primary Election Law."

Whenever it is desired by any party to hold a primary election under the provisions of this act, a resolution, stating that the primary will be so held, must be adopted by the committee having general charge of the party affairs. It then becomes the duty of the committee to fix the time and place of holding the primary, to appoint three judges and two clerks of election to serve at each polling place, to publish notice of the purpose, time and place of holding the primary election, with a description of each primary election district, and the names of the persons selected to act as judges and clerks.

By another enactment of the legislature, primary elections for delegates to nominating conventions must be held under the provisions of a special law relating thereto, in every county, city or incorporated town, where the names of candidates are printed on official election ballots. Under this law, the various precincts are grouped into primary election districts, each of which must not contain more than one thousand voters belonging to the party holding the primary.

Fifteen days before the time fixed for holding the primary election, an official call must be filed with the election commissioners, and in cases where there are no election commissioners having jurisdiction of the matter, the call must be filed with the county clerk. This call sets forth the name of the party, and the address of its managing committee, the day on which the primary is to be held, the name, place and time of the convention for which delegates are to be

chosen, the description of the primary districts, together with the names of the judges and clerks, and the location of the polling place in each district, and the name of some newspaper recommended for the publication of the notice of such election.

At least ten days before the primary election day, the election commissioners, or the county clerk, as the case may be, must publish a notice of the election, containing substantially the statements set forth in the official call.

Every legal voter entitled to vote at regular elections, residing within the primary election district, who is a member of the political party holding the primary election, is qualified to vote at such election. Generally speaking, the method of voting at primary elections is the same as at regular elections. The law contains sufficient provisions to secure a full, free and fair expression of the will of the voters at these elections, and severe penalties are imposed for violation of any of its requirements.

CHAPTER XXII.

THE EDUCATIONAL SYSTEM.

It may be asserted with pride by the citizens of Illinois that its local political institutions received their first impetus from the common-school system inaugurated in the early days of the Territory. As the church furnished the center for the growth of the township in New England, so the schoolhouse and the organization of the school township in Illinois prompted the beginning of local governmental institutions.

The beginning of the school system of Illinois was the provision of the enabling act, by which one section or square mile of land in each township was required to be set apart as the basis of a common-school fund, and the history of the State shows that from the earliest period of its existence down to the present time it has always been the special aim and object of its government to provide a system of public schools, so that all the children of the State may receive a good common-school education.

In a free commonwealth, where every one shares in the responsibilities of the government, the general education of the people is a public necessity, since there should be an enlightened public opinion to which those charged with the performance of public duties can appeal for support. For this reason every State in the Union provides for the education of its children, that they may become qualified to exercise the rights and fulfill the duties of citizenship.

Constitutional Provisions.—Education has always been a matter of special solicitude on the part of the framers of our government, and for this reason one entire article of the constitution of the State is devoted to the subject.

This article requires that the general assembly shall provide a system of free schools, in which all children of this State may receive a good common-school education; and that all grants and gifts for educational purposes and the proceeds thereof shall be applied faithfully to the objects for which they were made.

That religious differences may not influence the management of the public schools or interfere with their efficient operation, the constitution prohibits the legislature, and every municipality in the State, from expending, or attempting to expend, any public money for the support of any church, and from helping to sustain or support any school or literary institution of any kind under the control of any church or sectarian denomination.

These provisions of the constitution meet with the approval of all citizens of the State, regardless of their religious affiliations, and by general consent all religious instruction in the sectarian sense has been excluded from the public schools of Illinois.

To ensure honesty in the management of school affairs, the constitution forbids any teacher, state, county, township or district school officer from being interested in the sales, proceeds or profits of any book, apparatus or furniture used, or to be used, in any school in this State, with which he is connected.

The constitution also provides for the election of a Superintendent of Public Instruction, who is one of the executive officers of the State, and for the election of a County Superintendent in each county of the State. The

duties of these, as well as of all other school officers, are determined by the general school law of the State.

General School Law of the State.—In accordance with these mandates of the constitution, the general assembly, in the year 1872, enacted a school law which practically superseded and repealed all school laws then existing, except those contained in special acts and charters, and provided in detail for the administration of school affairs in every part of the State. This law since its enactment has been amended and revised, and in its present form went into effect on May 21, 1889.

We shall now consider its provisions, for the purpose of showing the completeness of the system and how it has been adapted and modified so as to be applicable to every community, from the smallest village to the most populous city.

State Superintendent.—This officer is elected every four years by the people of the entire State and is the head of the educational system. He must have an office at the capital of the State, and file and preserve all papers, records and public documents coming into his hands relating to the educational affairs of the State. He is the supervisor of all the public schools of the State, and is required to be informed fully, by reading, observation and consultation with educational authorities, as to the best manner of conducting common schools. He is the adviser of the county superintendents, and must, from time to time, give them such information as he shall deem to be for the best interests of the schools under their charge.

Prior to each session of the general assembly, he must report to the governor the condition of the schools in the different counties of the State, giving information and statistics in detail. He is the legal adviser of all school

officers, and must give to them, upon request, a written opinion upon any questions arising under the school laws. These opinions are binding upon school officers, and have all the force of laws until they have been overruled by a court of record.

He also exercises certain judicial powers in hearing and determining all controversies arising under the school laws which are certified to him by the different county superintendents. His powers enable him to insist that the school laws of the State shall be faithfully observed and followed by all school officers.

County Superintendents.—Each county has a Superintendent of Schools, who is elected every four years by the people of the county. The county board is required to furnish him with an office, fixtures and office supplies. His principal duties consist in visiting the schools of the county, noting the methods of instruction, the branches taught and the text-books used, and giving to teachers and school officers such instructions and directions in the science, art and method of teaching and course of study as he may deem expedient and necessary. He acts as the official adviser of school officers and teachers of his county, and must faithfully carry out all instructions given by the State superintendent. He is required to elevate the standard of the teachers and to improve the condition of the common schools of his county in every practicable way.

He examines the books, accounts and vouchers of the township treasurer, and the notes, bonds, mortgages and other securities which are held by that officer. He must provide for the examination of persons seeking appointment as teachers in the county, and grant certificates of qualification to those who pass the required examinations.

He is authorized to bring suit against financial officers

of the county who fail to comply with the school law, and can remove school directors from office for willful failure to perform their duties.

Township Trustees.—The school business of the township is transacted by three trustees, who are elected by the legal voters of the township. The trustees meet semi-annually in the months of April and October. At these meetings they apportion all State, county and township funds on hand among the different districts of the township in which schools have been kept as required by law. After these funds have been so apportioned, they are placed on the books of the Township Treasurer to the credit of the respective districts and are paid out on the order of the directors of the different districts.

These trustees are also required to make detailed reports to the county superintendent as to the condition of the schools in the various townships, the number of pupils attending the same, and other statistics, and give a full statement of the manner in which the educational funds of the township have been expended. They hold the legal title to all schoolhouses and schoolhouse sites in the township, and are authorized to receive gifts, grants and donations for the use of the schools within their township.

Upon the petition of not less than fifty voters in the township an election may be had to determine whether or not the people desire to establish a township high school. If the question is decided affirmatively, another election must be had to select a township board of education, consisting of five members, who shall have charge of the establishment and maintenance of the township high school.

Township trustees must divide the township into school districts and prepare a map of the township, designating

the different districts into which it is divided. They have full power to divide or consolidate districts, organize new districts and change the boundaries of districts upon petition of the legal voters whose interests are affected.

Township Treasurer.—This officer is appointed by the board of trustees of the township, and must give a suitable bond for the faithful performance of his duties. He is the custodian of the school fund of the township and of all securities belonging to the same. He must keep books of account, the form of which is determined by law, and he has the power to loan school money belonging to the township, but in exercising this power he is required to follow numerous provisions of the statute. The office of township treasurer is an important one, and the law holds him strictly accountable for the proper disposition of the funds of the township.

Board of Directors.—After the township has been divided into districts by the township trustees, three directors are elected in each district, who have charge and control of the schools.

The duties of the Board of Directors of each district are to make all reports to the County Superintendent as required by law, giving the details of the school business of the district, and to ascertain and certify the amount of money which must be raised by taxation to support the schools of the district in each year. This certificate furnishes the basis of the tax levy for school purposes.

They must establish and keep in operation for at least one hundred and ten days in each year a sufficient number of free schools to accommodate all children in the district over the age of six and under the age of twenty-one years; they must secure for all such children an equal participation

in the benefits of the school system. They can adopt and enforce all necessary rules and regulations for the management and government of schools. They must inspect the schools from time to time, appoint all teachers and fix their salaries. They must direct what branches of study shall be taught and what text-books and apparatus shall be used in the several schools, and they can purchase, at the expense of the district, a sufficient number of text-books to supply children whose parents are unable to purchase them. In short, they have all the powers which are needed to accomplish the establishment and maintenance of public schools in their respective districts as required by the constitution of this State.

Boards of Education in Certain Districts.—In all school districts having a population of not less than one thousand and not more than one hundred thousand inhabitants; a Board of Education, consisting of at least six members, is chosen by popular vote. Three additional members are chosen for every additional ten thousand inhabitants. Another member, styled the President of the Board of Education, is also elected annually.

The board of education has the powers of school directors, and, in addition, it has the power to establish and support free schools for not less than six, nor more than ten, months in each year; to repair and improve schoolhouses and to furnish them with the necessary fixtures, furniture and apparatus; to establish schools of different grades and make regulations for the admission of pupils. They levy a tax annually upon the taxable property of the district to support and maintain the schools; they can employ a superintendent of schools and pay him a salary and divide the district into sub-districts whenever necessary.

Boards of Education in Cities of 100,000 Inhabitants. — In cities of this class, of which Chicago is the only example, the school affairs are under the control of a Board of Education, consisting of twenty-one members. These members are appointed by the mayor, with the advice and consent of the common council. Any person who has resided in the city more than five years next preceding his appointment is eligible to membership. The officers of the board are a President and Vice-President, who are elected annually by its members from their own number, and a Secretary, who is also elected by the board, but is not a member of it.

Administrative Officers. — The law authorizes the board of education to appoint such other officers and employes as it deems necessary for the proper administration of school affairs. In the City of Chicago a large number of officers are required for this purpose, the more important of which are the following:

The Superintendent, who has general charge of the educational work of the board. He is the principal executive officer of the board, as well as its adviser upon all school matters. He visits the schools as often as practicable and observes the discipline and methods of instruction employed. He supervises the examination of teachers and makes recommendations to the board as to their employment, promotion and removal. He also advises the board concerning the text-books and apparatus used in the schools and the changes and improvements which should be made in them. He is assisted in the performance of his duties by district superintendents.

The Clerk and School Agent, who keeps the records of the board and acts as its financial agent in the collection of rentals from school-fund property and the income from

school funds. He also makes up and certifies the payrolls of the teachers.

The Business Manager.—This officer has a great variety of duties to perform in connection with the award of contracts, the purchase of supplies and the general care and maintenance of the school buildings and property of the board.

The Chief Engineer, who has charge of the heating and ventilating apparatus in the school buildings. He is the superior officer of the engineers and janitors of the various school buildings and must see that each building is kept in a proper sanitary condition.

The Architect superintends the erection and alteration of school buildings. It is his special duty to see that all work of this kind is done in an economical and workmanlike manner.

The Attorney attends to the legal business of the board. He prepares all legal documents required to be executed by the officers of the board. He also represents the board in all litigation in which it may be involved.

The Auditor, who is the official bookkeeper of the board, keeps the financial records of the board and certifies as to the correctness of all bills presented for payment.

The Superintendent of Supplies has charge of the stationery, books and supplies of various kinds purchased by the board and their distribution among the different schools.

Powers of the Board.—The board of education has power, with the concurrence of the city council, to erect and purchase buildings, and to buy and lease ground for school purposes, and to issue bonds for the purpose of building, buying and repairing schoolhouses and purchasing sites for the same.

Independent of the city council, the board of education

has the power to provide the schools with necessary furniture, fixtures and apparatus, and to hire buildings for the use of schools, to employ teachers and fix their compensation, to prescribe the text-books to be used and the studies to be taught, and to divide the city into districts, to change the same and create new ones, as the circumstances may require. The board of education possesses all the rights, powers and authority required for the proper management of the schools. It can expel any pupil from school for misconduct, and can dismiss and remove any teacher whenever the interests of the schools may require.

Duties of the Board.—It is the duty of the board of education to supervise all the schools; to examine all applicants for positions as teachers, and when qualified to grant them certificates; to determine and employ the number and grade of teachers required; to take charge of and keep in good condition the schoolhouses, grounds and other school property; to prescribe the discipline, method and course of instruction for all schools; to report to the city council from time to time any suggestions that may be deemed requisite in relation to the schools and the management thereof. These powers can be exercised only at a regular meeting of the board of education, and the city council is expressly prohibited from exercising any of the powers which are granted by law to the board of education.

Special Features of the Law Applicable to Chicago.—In the City of Chicago the system of school management is essentially different from that which exists in other parts of the State. Some of the more important points of difference are:

1. The members of its board of education are appointed by the mayor, while in smaller cities and in rural districts they are elected by the people.

2. The board of education of Chicago examines teachers and determines their qualifications. In other parts of the State this power is exercised by the county superintendent.

3. The board of education of the City of Chicago cannot levy taxes for school purposes; this power is exercised by the city council.

4. The power of purchasing land for school purposes, erecting buildings and issuing bonds for these purposes can be exercised by the board of education only with the concurrence of the city council. In other parts of the State the school officers can exercise these powers, but only with the approval of a majority of the legal voters of the district, as expressed by an election held for this purpose.

With these exceptions, the board of education of Chicago is subject to the general school law of the State. It expends annually about \$8,000,000 for school purposes, all of which is raised by taxation, except about \$1,000,000, which is derived from the rental of school lands,* investments of school money and the State common-school fund.**

Teachers.—No teacher can be employed in a common school of this State who is not of good moral character and at least eighteen years of age if a male and seventeen years of age if a female, and who does not possess a certificate of qualification. In counties in which a normal school

*One section of land in each township was originally set apart for the support of schools. The greater part of this land was sold many years ago, but the remainder of it has become so valuable that the annual rental derived from it amounts to about \$750,000.

**The State common-school fund consists of the proceeds of a tax levied by the State for educational purposes and the interest on certain funds set apart for the support of schools. It is distributed among the different municipalities in proportion to their population of school age.

is established under the control of the county, graduates of that school can be authorized to teach without an examination.

Teachers' certificates may be granted by the State superintendent of public instruction or by the county superintendents of the different counties, after suitable examinations have been held by them, but in the City of Chicago certificates of qualification are granted by the board of education. No teacher can lawfully receive any salary for services unless possessed of the required certificate of qualification. The duties of teachers are too well known to require any further description.

Women as School Officers—One other provision of the school law should be noted, because it constitutes an exception to the general policy of the State with reference to public matters. Under the laws of this State women are allowed to vote at all school elections, and are eligible to hold office under the school law of the State. The propriety of this provision cannot be questioned, because women are employed very largely in educational work as teachers and superintendents, and by nature and training they are fully qualified to deal with educational problems.

CHAPTER XXIII.

TAXATION AND EMINENT DOMAIN.

Among the numerous questions which arise in administering the affairs of any government, whether it be that of a nation, State, city, village or school district, none are more important or more closely affect the happiness and welfare of the people than those which pertain to revenue and taxation. The history of nations is largely composed of the record of attempts to dispose of these questions. Sometimes the issue has been settled peaceably by discussion and mutual agreement, but frequently it has been determined by bloodshed and revolution. The latter was the case in our Revolutionary War, which originated in a difference of opinion between England and the colonies as to which should determine the nature and amount of the taxes to be paid by the people of this country.

At the present time questions of taxation and the expenditure of public money are involved in nearly every election. For these reasons, the subject of taxation is of fundamental importance to every citizen who would discharge the duties of citizenship in an intelligent and patriotic manner.

Taxes Defined.—Taxes are sums of money which the government requires its citizens to pay for its support. These payments are not voluntary, but are obligatory, and if the citizen neglects them the government collects the debt by selling a sufficient amount of his property to pay his tax.

Therefore, taxes may be defined further as that part of the property of individuals which the government takes to defray its expenses incurred for the common good of all. Revenue is the income of the government derived from taxation.

Taxation is necessary, because governments cannot fulfill the purposes for which they exist without the expenditure of large sums of money, which must be contributed by the citizens in proportion to their wealth. The revenue of the national government is raised principally by indirect taxation.* Revenues of the State, county and municipal governments are raised by a system of direct taxation—that is, by levying taxes upon the value of the actual property, such as land, money, stocks or bonds, which each individual possesses.

Constitutional Provisions.—The constitution of the State determines some of the fundamental principles which must be observed in taxing citizens of Illinois and all municipalities in the State must be governed by its provisions in raising their revenue.

Taxes must be levied so that every person will be obliged to pay in proportion to the value of his property. The property of the State, counties and other municipal corporations, and property used exclusively for agricultural or horticultural societies, for school, religious and charitable purposes, may be exempt from taxation. It authorizes the sale of the property of citizens for non-payment of taxes and directs, in a general way, how it may be done.

To protect citizens from excessive taxation, it forbids county authorities to assess taxes whose aggregate exceeds seventy-five cents per one hundred dollars of valua-

*See page 57.

tion, unless authorized by a vote of the people. For the same reason it prohibits any county, city, school district or other municipal corporation from becoming indebted in any manner or for any purpose, to an amount exceeding in the aggregate five per cent of its taxable property, and it requires that suitable provision shall be made for the payment of every public debt within twenty years from the time it is incurred.

Subject to these general limitations, the power of enacting necessary revenue legislation is committed to the general assembly.

The Objects for Which Taxes Are Levied.—Taxes are levied for the support of the State government, including the salaries and expenses of State officers, the maintenance of public buildings and offices in which the business of the State is transacted, the expenses of charitable and educational institutions, the equipment of the militia, and many other objects involving the expenditure of money.

At each session of the legislature certain laws are passed called appropriation bills, which fix the amount which must be raised by taxation to defray the expenses of the State government.

In a similar manner the estimated expenses of the county are determined by the county board, which must adopt annually a resolution called the appropriation bill, which fixes the amount of the county expenditures.* The county government levies taxes to pay the salaries of judges and county officers, and to defray the expenses of the county institutions, including courts, jails, almshouses, hospitals and asylums of various kinds. In the year 1898 the expense of conducting the government of Cook County

*See pages 169 and 171.

amounted to about \$3,000,000. Of this amount about thirty per cent was expended for the maintenance of the courts, about twenty per cent in paying salaries, about twenty-five per cent in defraying the expenses of hospitals, almshouses, asylums and various charities, and the remainder for the expenses of holding elections, assessing taxes, maintaining buildings and numerous other items, which may be classed under the head of administrative expenses.

The objects for which the government of a large city levies taxes are numerous. In round numbers, the taxpayers of the City of Chicago contribute about \$16,000,000 every year for the support of its city government and public school system. Of this total amount, about forty-one per cent is expended for the support of the schools, about twenty per cent for the police department, about nine per cent each for the public works and fire departments, and the remainder for miscellaneous salaries, elections, interest on the city debt, lighting the streets, the sewer department, the city prison and the public library.

Each year the heads of the various departments make an estimate of the amount required for the ensuing year to defray the expenses of their respective departments. These estimates are embodied in an ordinance called the annual appropriation bill, which the city council must pass within the first quarter of each year. This appropriation bill fixes the amount which must be raised by taxation to support the city government.

Besides these, other taxes are levied in some municipalities. For example, in the City of Chicago a tax must be paid for the construction of the drainage canal, and another tax to maintain and extend the various systems of parks and boulevards. All of these taxes are apportioned among the citizens and collected by county officers.

The Assessment of Taxes.—After the amount to be raised by taxation for State, county, municipal, school and other public purposes has been determined, then the proportion of this amount to be paid by each individual must be ascertained. This is called the assessment of taxes.

The just assessment of taxes is a delicate and difficult task, and the law carefully prescribes the methods to be pursued. It is necessary first to obtain an accurate list of all the property in the county which is liable to taxation. Property is of two kinds—namely, real property, consisting of lands and houses, and personal property, which includes everything movable, such as money, stocks, bonds, furniture, horses, cattle, jewelry and merchandise.

The list of real property is made by the county clerk every fourth year prior to the first day of April in that year, but must be revised by him annually. Personal property must be listed by the person who owns it. Every such person is required each year to make a correct statement of the personal property owned by him on the first day of April. The form of this statement is prescribed by law and the person who makes it must swear to the correctness of its contents.

Assessors.—The actual work of assessing the taxes is done by officers called assessors, there being one assessor in each town of the State. In counties not under township organization the county treasurer is the county assessor. In counties under township organization having less than 125,000 inhabitants the county treasurer is the supervisor of assessments and has general charge of the work of the various assessors of the towns in his county. In all counties containing 125,000 inhabitants or more a board of assessors, consisting of five persons, is elected by the people.

Notwithstanding the different ways in which these offices

are filled, the work of assessors of taxes is substantially the same in all parts of the State. It is their duty to obtain from the county clerk on or before the first day of April in each year the assessment books, which contain the list of real estate liable to taxation in the different towns or districts of the county, and to determine, as nearly as possible, the value of each parcel of land. The assessors also must make a list of the persons owning personal property and its value. Both real and personal property are appraised by the assessors at their fair cash value, which is termed the "full value" of the property. One fifth of this value is called the "assessed value," and is taken as the basis on which the amount of tax to be paid by the owner is computed.

Board of Review.—The work of the assessors is subject to revision by another set of officers, called the Board of Review. In counties under township organization having less than 125,000 inhabitants this board is composed of the clerk of the county court, the chairman of the county board and a citizen selected by the county judge. In counties not under township organization the Board of County Commissioners constitutes the board of review. In counties under township organization, containing 125,000 or more inhabitants, a board of review, consisting of three persons, is elected by the people.

The board of review is required to meet on or before the second Monday in July in each year for the purpose of revising the assessment of property. It has power to revise the whole or any part of the assessment of any taxpayer and correct the same as shall appear to them to be just. It is the duty of the board of review to revise, adjust, correct and alter the work of the assessors so as to produce an

equitable distribution of the burdens of taxation among all the taxpayers.*

Computing the Rate.—The assessment books are made in duplicate, and when the work of assessing the property in the county has been completed the board of review delivers one set of these books to the county clerk and the other set to the county assessor, supervisor of assessments, or board of assessors. The county clerk computes the rate per cent upon the proper valuation of the property in the county which will produce the amount required to be raised by taxation.**

After the work of assessing property and computing the rate of taxes has been completed, the county clerk delivers to collectors in his county books for the collection of taxes, which contain correct lists of the taxable property as assessed. This must be done on or before the tenth day of January following the year in which the taxes are levied. In counties under township organization a collector in each town is chosen by the people, and the county treasurer is the county collector. Each county not under township organization is made by law a collection district, and the sheriff is both district and county collector.

Collection of Taxes.—Each town collector, upon receiving the tax books, proceeds to collect the taxes listed therein,

*Another body, having some duties to perform in connection with the assessment of taxes, is the State Board of Equalization, which is composed of one member elected by the people in each of the congressional districts of the State. This board assesses the capital stock of corporations and certain property of railroad companies, described as "railroad track" and "rolling stock." It also equalizes the assessment in the different counties so as to accomplish a just distribution of assessments throughout the State—that is, make the assessed value of the property in each county bear a just relation to the assessed value of the property in all other counties.

**See Moore's Arithmetic, page 212, for an explanation of the method of computing taxes.

and for that purpose he must call at least once on each person taxed and demand payment of his personal property tax. In case of non-payment, it is then the duty of the collector to levy upon and sell the *personal property* of such delinquent and thus collect the debt due to the public. The collectors are required to make statements every thirty days of the amounts collected by them and to pay over the same to the proper officers.

They must return the tax books to the county collector and make final settlements for the amount of taxes placed in their hands for collection on or before the tenth day of March in each year. At this time they are required to furnish to the county collector a detailed statement of the amount of taxes they have been unable to collect on real estate and on personal property.

After these returns have been made by the collectors it is the duty of the county collector to proceed to collect unpaid taxes and to turn the same over to the proper municipal officers in the same manner as is required of the town and district collectors. The power of town and district collectors to enforce the payment of taxes extends only to a sale of the *personal property* of the person charged. For this reason the greater portion of the personal property tax is generally collected by the town or district collectors, leaving only a comparatively small part to be collected by the county collector. The county collector is required to enforce the collection of delinquent taxes on real property by a sale of the property taxed. Therefore, as the majority of taxpayers like to postpone the payment of their taxes as long as possible, it follows that the greater portion of the taxes on real estate are collected by the county collector.

Delinquent Taxes.—All real estate upon which taxes remain due and unpaid on the tenth day of March, annually,

or at the time the town or district collector makes return of his books to the county collector, is deemed *delinquent*, and such taxes bear interest after the first day of May at the rate of one per cent per month until paid or collected by sale of the property. The proceedings for the sale of real estate for the non-payment of taxes usually commence in the months of April and May, and in the case of populous counties, like Cook County, where real estate is subdivided into small lots or parcels, the sale is not completed until the month of December following.

After real estate has been sold for non-payment of taxes the county clerk executes and delivers to the purchaser a certificate of purchase, which describes the property sold and states the date of the sale, the amount of unpaid taxes on the property and other details. The owner of the property sold is allowed two years in which to redeem from the sale, by paying to the county clerk the amount of the taxes for which the land was sold, together with interest, expenses of the sale and the penalties imposed by law in such cases. If the owner does not redeem within the two years, then the holder of the certificate of purchase is entitled to receive from the county clerk a tax deed, which conveys to him an absolute title to the property sold.

Eminent Domain.— There is another method by which the government sometimes takes possession of the property of individuals and uses the same for public purposes. This is done by the exercise of the right of eminent domain, by which is meant the right of the government to take possession of and use property for the benefit of the public, which is greater than the right of the individual citizen to hold the property for his own private use. This power of the government is exercised so frequently that a general knowledge of the subject should be possessed by every citizen,

and, therefore, a very common instance will be taken as an illustration.

Taking Property.—It is the duty of the government of a city or village to lay out and open such streets and alleys as may be required for the convenience of the public. The contemplated street must necessarily cross the land of one or more citizens, and sometimes the property owner is compelled to move his buildings from the ground to be so occupied. This is a damage to the owner of the property, because his land is taken from him and used as a street and perhaps he has been obliged to tear down or remove expensive structures. Therefore, the law compels the government in such a case to pay to the property owner the amount of the damage incurred.

Compensation.—The rights of citizens in all cases of this kind are secured by the constitution, which provides that "private property shall not be taken or damaged for public use without just compensation." Further, the laws of the State indicate the method to be followed in ascertaining the amount of damage to be paid to citizens in such cases. The city is obliged to file a petition in the county or circuit court, setting forth a description of the property which it is proposed to take, the purpose for which it is to be taken, the name or names of the owners, and asking that the compensation to be paid to the owner may be determined by the court. This question is submitted to a jury of twelve persons selected in the same manner as in other trials, and the amount awarded by the jury must be paid by the government to the owner of the property before it can use the land for the purpose proposed.

Taxation and Eminent Domain Contrasted.—Thus the exercise of the right of eminent domain is similar to the exercise of the power of taxation, in that private property is taken

for public purposes in both cases, and in both cases compensation is given to the owner. But there are marked differences to be observed with reference to these subjects. The right of eminent domain is exercised not only by the different kinds of government under which we live, but also by certain public corporations, such as railroads, and telegraph and bridge companies, while the power of taxation is exercised by the government alone. Again, the right of eminent domain is exercised only at certain times and in certain cases, while taxation is enforced at all times and affects all property owners.

There is also a difference in the kind of compensation that the citizen receives. When his property is taken under the right of eminent domain he is paid for it in money, but when it is taken by taxation the citizen gets his pay by receiving police and fire protection, the advantages of public schools and all other benefits that he derives from the government under which he lives.

CHAPTER XXIV.

THE RIGHTS AND DUTIES OF CITIZENS.

The consideration given in the preceding chapters to the political institutions of our country and State will fail in its purpose if it does not impress us with the magnitude and number of the rights, privileges and immunities enjoyed by American citizens, as well as the serious character of the obligations imposed upon them.

In concluding our study, we shall summarize briefly the more important of these rights and duties. An exhaustive statement of these topics involves a detailed study of our statute books, because every provision of the national and State constitutions, as well as every law that has been enacted, is designed to protect citizens in the enjoyment of some right, and the possession of a right always implies the existence of a duty on the part of its possessor.

The rights of a citizen of the United States may be divided into two classes—namely, those *civil* rights which are enjoyed by all citizens alike, regardless of age or sex, and those *political* rights which are possessed by citizens having certain qualifications.

It was the special aim and object of the founders of our government to protect the civil rights of citizens. To this end we find it enunciated in the Declaration of Independence that among the inalienable rights of men are those of life, liberty and the pursuit of happiness, and that governments are instituted to secure these rights. The study of

our national Constitution also shows that its framers zealously guarded and protected these rights. This is apparent when we recall that, after the instrument had been completed and signed by the members of the constitutional convention, there was still a lingering fear that the document had not been sufficiently explicit in these particulars, and that to remove all possible doubt the first ten amendments were adopted at the earliest opportunity. To still further protect citizens in the enjoyment of their civil and political rights the last three amendments were enacted.

In a similar manner, the constitution of Illinois shows with what solicitude and care these rights have been guarded by that instrument, and nowhere can there be found a more complete list of the civil and political rights of mankind than is contained in the Bill of Rights which forms a part of our State constitution.

Rights of Citizens.—*Personal Security.*—Every citizen has the right of personal security—that is, to be protected from personal injury, either to his body, health or reputation. To this end, a large portion of our laws have been framed, and in their enforcement many public officers are employed. For the protection of citizens from actual bodily harm and violence, sheriffs and policemen perform their duties, and, in case their assistance cannot be had, the citizen is given the right to defend himself. The public health is guarded by numerous laws and ordinances on sanitary subjects, and great care is taken to prevent the spread of contagious diseases. Lastly, the laws for the punishment of slander and libel protect the reputations of citizens.

Property.—This is one of those absolute civil rights of which the citizen cannot be deprived. It means that every one has the right to acquire, own and use property, and

that, if necessary, the entire power of the government will be exerted to prevent an individual from being deprived unlawfully of his property. No man's property can be taken from him by another except by due process of law, and if a citizen faithfully fulfills his obligations, legal processes will not be invoked against him.

Personal Liberty.—The existence of this right is recognized by numerous paragraphs of the Bill of Rights. By virtue of it a citizen is free to travel and live where he pleases and to engage in such lawful occupation as he deems best. In ancient times a ruler could deprive a citizen of his personal liberty at will, and therefore our English ancestors devised a remedy for this evil, known as the writ of *habeas corpus*. It has been in use in England from a period of remote antiquity, for personal liberty has always been asserted by the English law from its earliest ages. The principle was declared in the most solemn manner in Magna Charta, but the benefits of the writ were frequently avoided by time-serving judges until the year 1679, when the *habeas-corpus* act was passed by the English Parliament.

The *habeas-corpus* act has been substantially incorporated into the laws of every State in the Union, and the right to the writ has been secured by the constitutions of the United States and of the State of Illinois, both of which provide that the privilege shall not be suspended, except when the public safety requires it.

The writ of *habeas corpus* is a document issued by order of court upon the application of any person who is unlawfully deprived of his liberty. It commands the person having in his custody the applicant for the writ to bring him before the court to be dealt with according to the law. If the judge finds that the applicant for the writ has been unlawfully deprived of his liberty he discharges him from

custody at once. If, on the other hand, it is found that the confinement is lawful, the prisoner is remanded to the custody of the person producing him, to await the further action of the law.

It is impossible to evade the provisions of the *habeas corpus* act, and personal liberty will be safe in Illinois as long as this law remains in force.

Freedom of Conscience.—The right to perfect freedom in all matters of religious worship and profession is one of the fundamental principles of our government. To secure this freedom, our ancestors left their homes in Europe and settled in a wilderness. The constitution of Illinois declares that this right shall forever be guaranteed and protected, and that no person shall ever be denied any civil or political right by reason of his religious belief.

So firmly has this principle become established in our institutions and so fully do we recognize its existence that we scarcely realize how many years of struggle, what sacrifice of life and expenditure of money its establishment has cost. The history of almost every nation shows that the denial of this right has been the source of a large part of the cruelty and warfare from which mankind has suffered.

Freedom of Speech and of the Press.—Every person is at liberty to freely speak and write and publish his views upon all subjects, but is responsible to any one injured by the abuse of that liberty. Absolute freedom of speech and discussion, especially with reference to public matters, is essential to the welfare and perpetuity of the principles of popular government, because by the free interchange of opinion among people sound views are developed and will generally prevail. In the exercise of this right care must be taken that the reputation or business of a citizen is not injured by the circulation of false statements. The mali-

cious utterance of such statements is called slander, and the publication of them is libel, both of which are punished by severe penalties.

Protection from Unjust Laws.—Tyrannical governments in all ages have resorted to the expedient of enacting oppressive laws, so that their unjust acts might be defended by the plea that the laws must be enforced. At other times the operation of just and reasonable laws has been suspended at the will of the sovereign, regardless of the rights of the people. Acts such as these were charged against the King of Great Britain by the Declaration of Independence. To insure the people against abuses of this kind the constitution provides: That no *ex post facto* law, or law impairing the obligation of contracts, shall be enacted;* that all penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate.**

The first of these provisions protects the people from any legislative act having a retroactive effect. An *ex post facto* law is one which establishes or increases the penalty of an act already committed. For example, forgery is a crime punished by imprisonment in the penitentiary, but if the legislature should enact a law condemning to death all persons who have been convicted of forgery during the last two years, such a law would be *ex post facto* and therefore unconstitutional and void.

Any law which destroys or impairs the validity of a contract is also contrary to the constitution and void, because when citizens, relying upon existing laws, enter into an agreement, they acquire rights in the subject matter of the agreement. In such a case it would be manifestly

*See Sec. 14, Article II, of Constitution of 1870,

**See Constitution of 1870, Art. II, Sec. 11.

unjust for the legislature to damage or destroy those rights by passing a law which would impair in any way the obligations created by the contract.

The second of these constitutional provisions protects citizens from suffering excessive penalties for comparatively small crimes or misdemeanors. In some despotic governments the penalty of death is imposed for quite a variety of offenses, but under our more humane laws it is inflicted only in the case of a conviction for murder.

The same provision of our State constitution forbids a kind of punishment which in former times was inflicted frequently, particularly in cases of treason, whereby the person convicted not only suffered the severest penalty, but also forfeited all his property to the government, and his blood was declared corrupted, so that he became incapable of receiving or transmitting any inheritance. Such a punishment was inflicted by legislative or judicial act, called a Bill of Attainder, or simply an Attainder. It had the effect of punishing children and innocent persons for the crimes of their ancestors. Attainders have been abolished in England and are forbidden by the Constitution of the United States and the State of Illinois.

The examples which have been given illustrate what is meant by the civil rights of a citizen. His political rights are just as highly prized and important, but not nearly so numerous.

Suffrage.—This is the most important political right possessed by citizens. The origin of the word suffrage is somewhat in doubt, but its meaning is familiar to every person. The right of suffrage is the right to vote—that is, to give expression to a choice as to what person shall fill a particular office or as to whether or not a given governmental proposition shall become operative. The right of

suffrage is important, because by means of it each person who is entitled to its exercise has a voice in the determination of public questions.

The Right to Hold Office.—It is the right of every American citizen to hold office, provided he has the requisite qualifications established by law. It is also his privilege to aspire to any office which he is qualified to fill. In the preceding pages many offices have been mentioned, and there are many others which have been omitted. The occupants of each of these, from the highest to the lowest, have been chosen from the mass of the people.

The ambition to hold public office is an honorable one, but in its attainment none but honorable methods should be used. It is a great honor to be chosen to fill an office of public trust, and every recipient of such favor should strive to merit it by avoiding selfishness and corruption in the performance of his duties.

The Duties of Citizens.—The duties which all citizens owe to their government should receive their consideration quite as much as the rights which they enjoy, but, unfortunately, this is not always the case. All citizens of this country are fairly zealous in claiming their rights, but when it comes to the performance of their duties they often display an ignorance or negligence which does not speak well for their intelligence or patriotism. These duties are almost as numerous as the rights which have been described, and are also of a civil and political character.

Obedience to the Law.—This topic covers a multitude of matters which might be considered with profit, but we can discuss it only in a general way. It includes all of the duties of citizens. Every person who expects to be protected by the law in the enjoyment of his rights must conform to the conditions which the laws have imposed. If he fails in this

respect he is likely to lose some of his rights and to suffer a penalty proportionate to his failure. Laws should be obeyed by citizens from a sense of duty, and not from fear of punishment.

Any person who obeys the law because he fears the penalty of disobedience is likely to disobey it if he thinks he can escape discovery and punishment. A citizen who is willing to obey the law only in cases where he fears discovery and who is ready to disobey it secretly when he thinks his personal interests will be promoted thereby, is quite as dangerous to the welfare of the community as the professional lawbreaker and marauder. Yet many a so called respectable citizen does this very thing when he is a party to corruption in official conduct or bribery at elections.

The Payment of Taxes.—Although it is perfectly clear to every citizen that the expenses of government must be paid by taxation and that all should contribute for this purpose in proportion to their wealth, yet some men will seek to avoid this duty. In doing so, they resort to many dishonorable practices. They make untrue statements to the assessors as to the amount of their property, especially if their wealth is in such a form that it can be concealed. To ease their consciences in making these statements they temporarily transfer their property just before the first day of April and recover it shortly after that date. They tell the assessors that their property is worth much less than its real value. This is especially the case with reference to personal property, the value of which can be misrepresented with much more safety than in the case of real estate.

People who seek to escape the burden of taxation by methods such as these are generally known as "tax-dodgers." They defraud the government of its just dues and are not good citizens. Any person who is willing to

receive the benefits of the government and seeks to avoid paying for what he gets is actuated by principles no better than those of the professional solicitor of alms or the man who habitually repudiates his honest debts.

Self-Support.—Every citizen should avoid being a burden upon the community, and therefore it is his duty to provide for the support of himself and those dependent upon him. To perform this duty, every one should have some occupation by which he can earn his living and follow it industriously. No self-respecting man is willing to receive his support at the expense of others, and, except in cases of misfortune, an able-bodied person who is a burden upon the community has failed in performing the duties of citizenship.

Taking Part in Public Affairs.—Voting is not only the right and privilege of the citizen, but it is also his duty. The citizen who is qualified to vote and fails to do so is just as responsible for the evils of misgovernment as the man who votes for a dishonest candidate or a pernicious governmental measure.

This duty should be performed intelligently; therefore every citizen should take part in the discussion of public questions and be well informed upon those subjects which pertain to the administration of public affairs. In this country, the people govern themselves. They are the source of all power. Therefore, if the government is bad, the responsibility must rest with the people who have voted for improper measures or unworthy candidates, or both.

The qualified voter who neglects to perform the duty of voting should not complain if dishonest officials plunder the public treasury, for he did nothing to prevent it. The busy citizen who cannot find time to attend primary elec-

tions, or political conventions, should not complain of unworthy candidates, because he has been willing to let others do the work of nominating them, instead of participating in the matter himself.

There are many other duties which we might mention, as that of holding public office when the welfare of the community will be promoted thereby, the duty of public service, both in peace and war, and the duty of cultivating that public spirit which places the good of the State or nation above personal profit and ambition; but all of these have been suggested by what has been said, and the intelligent and patriotic citizen will have no difficulty in discovering where his duty lies. Duty and conscience should be the guides in civil and political life, and those who follow and obey are good citizens.

THE END.

APPENDIX "A."

CONSTITUTION OF THE UNITED STATES.

September 17, 1787.

PREAMBLE.—We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.

1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

✓ 2. *First.* The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

✓ *Second.* No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Third. Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined

by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three; *Massachusetts*, eight; *Rhode Island* and *Providence Plantations*, one; *Connecticut*, five; *New York*, six; *New Jersey*, four; *Pennsylvania*, eight; *Delaware*, one; *Maryland*, six; *Virginia*, ten; *North Carolina*, five; *South Carolina*, five, and *Georgia*, three.—See 14th Amendment.

Fourth. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Fifth. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

✓ 3. *First.* The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Second. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Third. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Fourth. The vice-president of the United States shall be president of the senate; but shall have no vote, unless they be equally divided.

Fifth. The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

Sixth. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

Seventh. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

4. *First.* The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

Second. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

5. *First.* Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Second. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Third. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Fourth. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days,

nor to any other place than that in which the two houses shall be sitting.

6. *First.* The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Second. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

7. *First.* All bills for raising a revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Second. Every bill, which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approves, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return; in which case, it shall not be a law.

Third. Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (ex-

cept on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

✓ 8. The congress shall have power—

First. To lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

Second. To borrow money on the credit of the United States:

Third. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

Fourth. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

Fifth. To coin money, regulate the value thereof, and of foreign coin, and to fix the standard of weights and measures:

Sixth. To provide for the punishment of counterfeiting the securities and current coin of the United States:

Seventh. To establish post offices and post roads:

Eighth. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

Ninth. To constitute tribunals inferior to the supreme court: To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations:

Tenth. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

Eleventh. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

Twelfth. To provide and maintain a navy:

Thirteenth. To make rules for the government and regulation of the land and naval forces:

Fourteenth. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

Fifteenth. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed

in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress:

Sixteenth. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings: and

Seventeenth. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

9. *First.* The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Second. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Third. No bill of attainder or *ex post facto* law shall be passed.

Fourth. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

Fifth. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another.

Sixth. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Seventh. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any

present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

10. *First.* No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

Second. No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

1. *First.* The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and together with the vice-president, chosen for the same term, be elected as follows:

Second. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Third. *The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and*

house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president. [The foregoing provisions were changed by the 12th Amendment.

Fourth. The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Fifth. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Sixth. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

Seventh. The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

Eighth. Before he enters on the execution of his office he shall take the following oath or affirmation:

I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States.

2. *First.* The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, for offenses against the United States, except in cases of impeachment.

Second. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers, as they shall think proper, in the president alone, in the courts of law, or in the heads of departments.

Third. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

3. He shall, from time to time, give to the congress information of the state of the Union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all officers of the United States.

4. The president, vice-president, and all civil officers of the United States, shall be removed from office, on impeachment for

and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

2. *First.* The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases, affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states; and between a state or the citizens thereof, and foreign states, citizens or subjects.

Second. In all cases, affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

Third. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

3. *First.* Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Second. The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

1. Full faith and credit shall be given, in each state, to the public acts, records and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

2. *First.* The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Second. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Third. No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

3. *First.* New states may be admitted by the congress of this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

Second. The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the

executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: *Provided*, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

1. *First*. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

Second. This constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; anything in the constitution or laws of any state to the contrary notwithstanding.

Third. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be suffi-

cient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth.

AMENDMENTS TO THE CONSTITUTION.

I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be con-

fronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

VII. In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IX. The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

XII. 1. The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the rep-

resentation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose a vice-president. A quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

XIII. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

XIV. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several states, according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other

crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such state.

3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

XV. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color or previous condition of servitude.

2. The congress shall have power to enforce this article by appropriate legislation.

APPENDIX "B."

ACT OF CONGRESS, APRIL 18, 1818.

Enabling the people of Illinois to form a State Constitution.

1. Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the inhabitants of the territory of Illinois be and they are hereby authorized to form for themselves a constitution and state government, and to assume such name as they shall deem proper; and the said state, when formed, shall be admitted into the Union upon the same footing with the original states, in all respects whatever.

2. And be it further enacted, That the said state shall consist of all the territory included within the following boundaries, to-wit: Beginning at the mouth of the Wabash river; thence up the same, and with the line of Indiana, to the northwest corner of said state; thence east with the line of the same state to the middle of Lake Michigan; thence north along the middle of said lake, to north latitude 42 degrees 30 minutes; thence west to the middle of the Mississippi river; and thence down along the middle of that river to its confluence with the Ohio river; and thence up the latter river along its northwestern shore, to the beginning: *Provided,* that the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided, also,* that the said state shall have concurrent jurisdiction with the state of Indiana on the Wabash river, so far as said river shall form a common boundary to both, and also concurrent jurisdiction on the Mississippi river, with any state or states to be formed west thereof, so far as said river shall form a common boundary to both.

3. And be it further enacted, That all white male citizens of the

United States, who shall have arrived at the age of twenty-one years, and have resided in said territory six months previous to the day of election, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said territory, be and they are hereby authorized to choose representatives to form a convention, who shall be apportioned among the several counties as follows:

From the county of Bond, two representatives;

From the county of Madison, three representatives;

From the county of St. Clair, three representatives;

From the county of Monroe, two representatives;

From the county of Randolph, two representatives;

From the county of Jackson, two representatives;

From the county of Johnson, two representatives;

From the county of Pope, two representatives;

From the county of Gallatin, three representatives;

From the county of White, two representatives;

From the county of Edwards, two representatives;

From the county of Crawford, two representatives;

From the county of Union, two representatives;

From the county of Washington, two representatives;

And from the county of Franklin, two representatives.

And the election for the representatives aforesaid shall be holden on the first Monday of July next, and the two following days, throughout the several counties in the said territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said territory regulating elections therein for members of the house of representatives.

4. *And be it further enacted*, That the members of the convention, thus duly elected, be and they are hereby authorized to meet at the seat of government of the said territory, on the first Monday of the month of August next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient at that time to form a constitution and state government for the people within the said territory, and, if it be expedient, the convention shall be and hereby is authorized to form a constitution and state government; or, if it be deemed more expedient, the said convention shall provide by ordinance for elect-

ing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place as shall be prescribed by the said ordinance, and shall then form for the people of said territory a constitution and state government: *Provided*, that the same, whenever formed, shall be republican, and not repugnant to the ordinance of the 13th of July, 1787, between the original states and the people and states of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the states therein to be formed: *And provided, also*, that it shall appear, from the enumeration directed to be made by the legislature of the said territory, that there are, within the proposed state, not less than 40,000 inhabitants.

5. *And be it further enacted*, That until the next general census shall be taken, the said state shall be entitled to one representative in the house of representatives of the United States.

6. *And be it further enacted*, That the following propositions be and the same are hereby offered to the convention of the said territory of Illinois, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States and the said state.

First. The section numbered 16 in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the state, for the use of the inhabitants of such township, for the use of schools.

Second. That all salt springs within such state, and the land reserved for the use of the same, shall be granted to the said state, for the use of the said state, and the same to be used under such terms, and conditions, and regulations, as the legislature of the said state shall direct: *Provided*, the legislature shall never sell nor lease the same for a longer period than 10 years at any one time.

Third. That five per cent of the net proceeds of the lands lying within such state, and which shall be sold by congress, from and after the first day of January, 1819, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz.: two-fifths to be disbursed, under the direction of congress, in making roads leading to the state; the residue to be appropriated,

by the legislature of the state, for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university.

Fourth. That 36 sections, or one entire township, which shall be designated by the president of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said state, to be appropriated solely to the use of such seminary by the said legislature: *Provided, always,* that the four foregoing propositions, herein offered, are on the conditions that the convention of the said state shall provide, by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January, 1819, shall remain exempt from any tax laid by order, or under any authority of, the state, whether for state, county, or township, or any other purpose whatever, for the term of five years, from and after the day of sale: *And further,* that the bounty lands granted, or hereinafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt, as aforesaid, from all taxes, for the term of three years, from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said state, shall never be taxed higher than lands belonging to persons residing therein.

7. *And be it further enacted,* That all that part of the territory of the United States lying north of the state of Indiana, and which was included in the former Indiana territory, together with that part of the Illinois territory which is situated north of and not included within the boundaries prescribed by this act, to the state thereby authorized to be formed, shall be, and hereby is, attached to and made a part of the Michigan territory, from and after the formation of the said state, subject, nevertheless, to be hereafter disposed of by congress, according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects, with the other citizens of the Michigan territory.

APPENDIX "C."

ORDINANCE OF AUGUST 26, 1818.

Adopted at Kaskaskia August 26, 1818, by the Convention which framed the first constitution of Illinois.

Whereas, the congress of the United States, in the act entitled "An act to enable the people of the Illinois territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states," passed the 18th of April, 1818, have offered to this convention for their free acceptance or rejection the following propositions which, if accepted by the convention, are to be obligatory upon the United States, viz.:

1. That section numbered 16 in every township, and when such section has been sold, or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the state for the use of the inhabitants of such township for the use of schools.

2. That all salt springs within such state, and the lands reserved for the use of the same, shall be granted to the said state for the use of the said state, and the same to be used under such terms and conditions and regulations as the legislature of said state shall direct: *Provided*, the legislature shall never sell nor lease the same for a longer period than ten years at any one time.

3. That five per cent of the net proceeds of the lands lying within such state, and which shall be sold by congress from and after the first day of January, 1819, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz.: Two-fifths to be disbursed under the direction of congress, in making roads leading to the state; the residue to be appropriated by the legislature of the state for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university.

4. That 36 sections, or one entire township, which shall be designated by the president of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said state, to be appropriated solely to the use of such seminary by the said legislature.

And whereas, the four foregoing propositions are offered on the condition that this convention shall provide by ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January, 1819, shall remain exempt from any tax laid by order or under the authority of the state, whether for state, county or township, or any other purpose whatever, for the term of five years from and after the day of sale. And further, that the bounty lands granted, or hereafter to be granted for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt as aforesaid from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said state, shall never be taxed higher than lands belonging to persons residing therein.

Therefore, this convention, on behalf of, and by the authority of the people of the state, do accept of the foregoing propositions; and do further ordain and declare, that every and each tract of land sold by the United States, from and after the first day of January, 1819, shall remain exempt from any tax laid by order, or under any authority of the state, whether for state, county, or township, or any purpose whatever, for the term of five years from and after the day of sale. And that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said state, shall never be taxed higher than lands belonging to persons residing therein. And this convention do further ordain and declare, that the foregoing ordinance shall not be revoked without the consent of the United States,

APPENDIX "D."

CONSTITUTION OF 1870.

Adopted in convention May 13, 1870; ratified by the people July 2, 1870; in force August 8, 1870.

PREAMBLE. We, the people of the state of Illinois—grateful to Almighty God for the civil, political and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations—in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the state of Illinois.

ARTICLE I.

BOUNDARIES.

The boundaries and jurisdiction of the state shall be as follows, to-wit: Beginning at the mouth of the Wabash river; thence up the same, and with the line of Indiana, to the northwest corner of said state; thence east, with the line of the same state, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude 42 degrees and 30 minutes; thence west to the middle of the Mississippi river, and thence down along the middle of that river to its confluence with the Ohio river, and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, that this state shall exercise such jurisdiction upon the

Ohio river as she is now entitled to, or such as may hereafter be agreed upon by this state and the state of Kentucky.

ARTICLE II.

BILL OF RIGHTS.

1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

2. No person shall be deprived of life, liberty or property, without due process of law.

3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the state. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

4. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

5. The right of trial by jury as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace by a jury of less than twelve men may be authorized by law.

6. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized.

7. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great; and the privilege or writ of *habeas corpus* shall not be sus-

pended, unless when in cases of rebellion or invasion, the public safety may require it.

8. No person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia, when in actual service in time of war or public danger: *Provided*, that the grand jury may be abolished by law in all cases.

9. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation and to have a copy thereof, to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

11. All penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offense committed within the same.

12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the state, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners subject to the use for which it is taken.

14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

15. The military shall be in strict subordination to the civil power.

16. No soldier shall, in time of peace, be quartered in any house

without the consent of the owner; nor in time of war, except in the manner prescribed by law.

17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

18. All elections shall be free and equal.

19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain, by law, right and justice freely, and without being obliged to purchase it, completely and without denial, promptly, and without delay.

20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of this state are divided into three distinct departments—the legislative, executive and judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

1. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

ELECTION.

2. An election for members of the general assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, and, every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either house,

the governor, or persons exercising the powers of governor, shall issue writs of election to fill such vacancies.

ELIGIBILITY AND OATH.

3. No person shall be a senator who shall not have attained the age of twenty-five years, or a representative who shall not have attained the age of twenty-one years. No person shall be a senator or representative who shall not be a citizen of the United States, and who shall not have been for five years a resident of this state, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff, or collector of public revenue, member of either house of congress, or person holding any lucrative office under the United States or this state, or any foreign government, shall have a seat in the general assembly: *Provided*, that appointments in the militia, and the offices of notary public and justice of the peace, shall not be considered lucrative. Nor shall any person, holding any office of honor or profit under any foreign government, or under the government of the United States (except postmasters whose annual compensation does not exceed the sum of \$300), hold any office of honor or profit under the authority of this state.

4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the general assembly, or to any office of profit or trust in this state.

5. Members of the general assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Illinois, and will faithfully discharge the duties of senator (or representative) according to the best of my ability; and that I have not, knowingly or intentionally, paid or contributed anything, or made any promise, in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, com-

pany or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act.

This oath shall be administered by a judge of the supreme or circuit court, in the hall of the house to which the member is elected, and the secretary of state shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed, shall forfeit his office, and every member who shall be convicted of having sworn falsely to or of violating his said oath, shall forfeit his office, and be disqualified thereafter from holding any office of profit or trust in this state.

APPORTIONMENT—SENATORIAL.

6. The general assembly shall apportion the state every ten years, beginning with the year 1871, by dividing the population of the state, as ascertained by the federal census, by the number 51, and the quotient shall be the ratio of representation in the senate. The state shall be divided into 51 senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord 1872, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by the expiration of term, shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain, as nearly as practicable, an equal number of inhabitants; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three-fourths, may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

NOTE.—By the adoption of minority representation, sections 7 and 8 of this article cease to be a part of the constitution. Under section 12 of the schedule and the vote of the adoption, the following section relating to minority representation is substituted for said sections:

MINORITY REPRESENTATION.

7 and 8. The house of representatives shall consist of three times the number of the members of the senate, and the term of office

shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year of our Lord 1872, and every two years thereafter. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected.

TIME OF MEETING AND GENERAL RULES.

9. The sessions of the general assembly shall commence at 12 o'clock noon, on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish, by imprisonment, any person not a member, who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

10. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the senate at the request of two members, and in the house at the request of five members, the yeas and nays shall be taken on

any question, and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

STYLE OF LAWS AND PASSAGE OF BILLS.

11. The style of the laws of this state shall be: "*Be it enacted by the People of the State of Illinois, represented in the General Assembly.*"

12. Bills may originate in either house, but may be altered, amended or rejected by the other; and on the final passage of all bills, the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of the majority of the members elected to each house.

13. Every bill shall be read at large on three different days, in each house; and the bill and all amendments thereto shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speakers thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the general assembly shall take effect until the first day of July next after its passage, unless, in case of emergency (which emergency shall be expressed in the preamble or body of the act), the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

PRIVILEGES AND DISABILITIES.

14. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

15. No person elected to the general assembly shall receive any civil appointment within this state from the governor, the governor and senate, or from the general assembly, during the term for which he shall be elected; and all such appointments and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the general assembly be interested, either directly or indirectly, in any contract with the state, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

PUBLIC MONEYS AND APPROPRIATIONS.

16. The general assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the officers of the government, shall contain no provision on any other subject.

17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within 60 days after the adjournment of each session of the general assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

18. Each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the state treasury, from funds belonging to the state, shall end with such fiscal quarter: *Provided*, the state may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate \$250,000; and moneys thus borrowed shall be applied to the

purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the state in war (for payment of which the faith of the state shall be pledged), shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months at least before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrevocable until such debt be paid: *And, provided, further*, that the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

19. The general assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the state under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void: *Provided*, the general assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

20. The state shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give, loan or extend its credit to or in aid of any public or other corporation, association or individual.

PAY OF MEMBERS.

21. The members of the general assembly shall receive for their services the sum of \$5 per day, during the first session held under this constitution, and 10 cents for each mile necessarily traveled in going to and returning from the seat of government, to be computed by the auditor of public accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except

the sum of \$50 per session to each member, which shall be in full for postage, stationery, newspapers and all other incidental expenses and perquisites; but no change shall be made in the compensation of members of the general assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the general assembly shall be certified by the speaker of their respective houses, and entered on the journals and published at the close of each session.

SPECIAL LEGISLATION PROHIBITED.

22. The general assembly shall not pass local or special laws in any of the following enumerated cases—that is to say, for—

Granting divorces;

Changing the names of persons or places;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating or changing county seats;

Regulating county and township affairs;

Regulating the practice in courts of justice;

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables;

Providing for changes of venue in civil and criminal cases;

Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;

Summoning and impaneling grand or petit juries;

Providing for the management of common schools;

Regulating the rate of interest on money;

The opening and conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability;

The protection of game or fish;

Chartering or licensing ferries or toll bridges;

Remitting fines, penalties or forfeitures;

Creating, increasing or decreasing fees, percentage or allowances

of public officers, during the term for which said officers are elected or appointed;

Changing the law of descent;

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose;

Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted.

23. The general assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this state or to any municipal corporation therein.

IMPEACHMENT.

24. The house of representatives shall have the sole power of impeachment; but a majority of all the members elected must concur therein. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be upon oath, or affirmation, to do justice according to law and evidence. When the governor of the state is tried, the chief justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office and disqualification to hold any office of honor, profit or trust under the government of this state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

MISCELLANEOUS.

25. The general assembly shall provide, by law, that the fuel, stationery and printing paper furnished for the use of the state; the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let by contract to the lowest responsible bidder; but the general assembly shall fix a maximum price; and no member thereof, or other officer of the state, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval

of the governor, and if he disapproves the same there shall be a re-letting of the contract, in such manner as shall be prescribed by law.

26. The state of Illinois shall never be made defendant in any court of law or equity.

27. The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

29. It shall be the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

30. The general assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

31. The general assembly may pass laws permitting the owners of lands to construct drains, ditches and levees for agricultural, sanitary or mining purposes, across the lands of others, and provide for the organization of drainage districts and vest the corporate authorities thereof with power to construct and maintain levees, drains and ditches, and to keep in repair all drains, ditches and levees heretofore constructed under the laws of this state, by special assessments upon the property benefited thereby. (This section was submitted to the voters at the election in November, 1878, as an amendment, was adopted and became a part of the constitution.)

32. The general assembly shall pass liberal homestead and exemption laws.

33. The general assembly shall not appropriate out of the state treasury, or expend on account of the new capitol grounds, and construction, completion, and furnishing of the state house, a sum exceeding, in the aggregate, \$3,500,000, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the state, at a gen-

eral election; nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

ARTICLE V.

EXECUTIVE DEPARTMENT.

1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction and attorney general, who shall, each, with the exception of the treasurer, hold his office for the term of four years from the second Monday of January next after his election, and until his successor is elected and qualified. They shall, except the lieutenant governor, reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified, and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

ELECTION.

3. An election for governor, lieutenant governor, secretary of state, auditor of public accounts, and attorney general, shall be held on the Tuesday next after the first Monday of November, in the year of our Lord 1872, and every four years thereafter; for superintendent of public instruction, on the Tuesday next after the first Monday of November, in the year 1870, and every four years thereafter; and for treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

4. The returns of every election for the above named officers shall be sealed up and transmitted, by the returning officers, to the secretary of state, directed to "The speaker of the house of representatives," who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the general assembly, who shall, for that purpose, assemble in the hall of the

house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal and the highest number of votes, the general assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the general assembly, by joint ballot, in such manner as may be prescribed by law.

ELIGIBILITY.

5. No person shall be eligible to the office of governor, or lieutenant governor, who shall not have attained the age of thirty years, and been, for five years next preceding his election, a citizen of the United States and of this state. Neither the governor, lieutenant governor, auditor of public accounts, secretary of state, superintendent of public instruction nor attorney general shall be eligible to any other office during the period for which he shall have been elected.

GOVERNOR.

6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

7. The governor shall, at the commencement of each session, and at the close of his term of office, give to the general assembly information, by message, of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall account to the general assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

8. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which they are convened; and the general assembly shall enter upon no business except that for which they were called together.

9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him, by the house first moving the adjournment, adjourn the general assembly to such time as he thinks proper, not beyond the first day of the next regular session.

10. The governor shall nominate, and by and with the advice and consent of the senate (a majority of all the senators elected concurring, by yeas and nays), appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

11. In any case of vacancy, during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate (a majority of all the senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the general assembly.

12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as is herein provided in other cases of vacancy.

13. The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor.

14. The governor shall be commander-in-chief of the military and naval forces of the state (except when they shall be called into the service of the United States), and may call out the same to execute the laws, suppress insurrection, and repel invasion.

15. The governor, and all civil officers of this state, shall be liable to impeachment for any misdemeanor in office.

VETO.

16. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objec-

tions at large upon its journal, and proceed to reconsider the bill. If, then, two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. But in all such cases the vote of each house shall be determined by yeas and nays, to be entered upon the journal.

Bills making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections, and if the governor shall not approve any one or more of the items or sections contained in any bill, but shall approve the residue thereof, it shall become a law as to the residue in like manner as if he had signed it.

The governor shall then return the bill, with his objections to the items or sections of the same not approved by him, to the house in which the bill shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider so much of said bill as is not approved by the governor.

The same proceedings shall be had in both houses in reconsidering the same as is hereinbefore provided in case of an entire bill returned by the governor with his objections; and if any item or section of said bill not approved by the governor shall be passed by two-thirds of the members elected to each of the two houses of the general assembly, it shall become part of said law, notwithstanding the objections of the governor.

Any bill which shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it; unless the general assembly shall, by their adjournment, prevent its return, in which case it shall be filed with his objections in the office of the secretary of state, within ten days after such adjournment, or become a law.

LIEUTENANT GOVERNOR.

17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the state, or other disability of the governor, the powers, duties and emoluments of the office, for

the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant governor.

18. The lieutenant governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president, *pro tempore*, to preside in case of the absence or impeachment of the lieutenant governor, or when he shall hold the office of governor.

19. If there be no lieutenant governor, or if the lieutenant governor shall, for any of the causes specified in section 17 of this article, become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

OTHER STATE OFFICERS.

20. If the office of auditor of public accounts, treasurer, secretary of state, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers of the executive department, and of all the public institutions of the state, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

21. The officers of the executive department, and of all the public institutions of the state, shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports to the general assembly, together with the reports of the judges of the supreme court of the defects in the constitution and laws; and the governor may at any time require information in writing, under oath, from the officers of the executive department, and all officers and managers

of state institutions, upon any subject relating to the condition, management and expenses of their respective offices.

THE SEAL OF STATE.

22. There shall be a seal of the state, which shall be called the "Great seal of the State of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

FEES AND SALARIES.

23. The officers named in this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this constitution, receive to their own use any fees, costs, perquisites or office, or other compensation. And all fees that may hereafter be payable by law for any service performed by any officer provided for in this article of the constitution, shall be paid in advance into the state treasury.

DEFINITION AND OATH OF OFFICE.

24. An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

25. All civil officers, except members of the general assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of — according to the best of my ability.

And no other oath, declaration or test shall be required as a qualification.

ARTICLE VI.

JUDICIAL DEPARTMENT.

1. The judicial powers, except as in this article is otherwise provided, shall be vested in one supreme court, circuit courts,

county courts, justices of the peace, police magistrates, and such courts as may be created by law in and for cities and incorporated towns.

SUPREME COURT.

2. The supreme court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus* and *habeas corpus*, and appellate jurisdiction in all other cases. One of said judges shall be chief justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

3. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this state five years next preceding his election, and be a resident of the district in which he shall be elected.

4. Terms of the supreme court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the northern division, in the city of Chicago, each year, at such times as said court may appoint, whenever said city or the county of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the state. The judicial divisions may be altered, increased or diminished in number, and the times and places of holding said court may be changed by law.

5. The present grand divisions shall be preserved, and be denominated Southern, Central and Northern, until otherwise provided by law. The state shall be divided into seven districts for the election of judges, and until otherwise provided by law, they shall be as follows:

First District.—The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski and Massac.

Second District.—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun and Christian.

Third District.—The counties of Sangamon, Macon, Logan, DeWitt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie and Tazewell.

Fourth District.—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass and Scott.

Fifth District.—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, LaSalle, Grundy and Woodford.

Sixth District.—The counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, DeKalb, Lee, Ogle and Rock Island.

Seventh District.—The counties of Lake, Cook, Will, Kankakee and DuPage.

The boundaries of the districts may be changed at the session of the general assembly next preceding the election for judges therein, and at no other time; but whenever such alterations shall be made, the same shall be upon the rule of equality of population, as nearly as county bounds will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

6. At the time of voting on the adoption of this constitution, one judge of the supreme court shall be elected by the electors thereof, in each of said districts numbered two, three, six and seven, who shall hold his office for the term of nine years, from the first Monday of June, in the year of our Lord 1870. The term of office of judges of the supreme court, elected after the adoption of this constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the judges in office at the adoption of this constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges, in the respective districts wherein the term of such judges shall expire. The chief justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number chief justice.

7. From and after the adoption of this constitution, the judges of the supreme court shall each receive a salary of \$4,000 per annum,

payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the terms for which said judges shall have been elected.

8. Appeals and writs of error may be taken to the supreme court, held in the grand division in which the case is decided, or, by consent of the parties, to any other grand division.

9. The supreme court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

10. At the time of the election for representatives in the general assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected, whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter one clerk of said court for each division shall be elected.

APPELLATE COURTS.

11. After the year of our Lord 1874, inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which such appeals and writs of error as the general assembly may provide may be prosecuted from circuit and other courts, and from which appeals and writs of error shall lie to the supreme court, in all criminal cases, and cases in which a franchise or freehold or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner, as may be provided by law; but no judge shall sit in review upon cases decided by him, nor shall said judges receive any additional compensation for such services.

CIRCUIT COURTS.

12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

13. The state exclusive of the county of Cook and other counties having a population of 100,000, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory and population, and shall not exceed in number one circuit for every 100,000 of population in the state. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the general assembly, at its session next preceding the election for circuit judges, but at no other time: *Provided*, that the circuits may be equalized or changed at the first session of the general assembly after the adoption of this constitution. The creation, alteration or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one or of two or more contiguous counties, containing a population exceeding 50,000, shall occupy nine months of the year, the general assembly may make of such county or counties a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

14. The general assembly shall provide for the times of holding court in each county, which shall not be changed, except by the general assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit courts shall be held on the first Monday in June, in the year of our Lord 1873, and every six years thereafter.

15. The general assembly may divide the state into judicial circuits of greater population and territory, in lieu of the circuits provided for in section 13 of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

16. From and after the adoption of this constitution, judges of the circuit courts shall receive a salary of \$3,000 per annum, payable quarterly, until otherwise provided by law. And after their salaries shall be fixed by law, they shall not be increased or dimin-

ished during the terms for which said judges shall be, respectively, elected; and from and after the adoption of this constitution, no judge of the supreme or circuit court shall receive any other compensation, perquisite or benefit, in any form whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the "board of county commissioners," unless he shall be at least 25 years of age, and a citizen of the United States, nor unless he shall have resided in this state five years next preceding his election, and be a resident of the circuit, county, city, cities or incorporated town in which he shall be elected.

COUNTY COURTS.

18. There shall be elected in and for each county, one county judge and one clerk of the county court, whose terms of office shall be four years. But the general assembly may create districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of and exercise the powers and jurisdiction of county judges in such districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians and conservators, and settlements of their accounts, in all matters relating to apprentices, and in proceedings for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

PROBATE COURTS.

20. The general assembly may provide for the establishment of a probate court in each county having a population of over 50,000, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlement of their accounts; in

all matters relating to apprentices, and in cases of the sales of real estate of deceased persons for the payment of debts.

JUSTICES OF THE PEACE AND CONSTABLES.

21. Justices of the peace, police magistrates, and constables shall be elected in and for such districts as are, or may be, provided by law, and the jurisdiction of such justices of the peace and police magistrates shall be uniform.

STATE'S ATTORNEYS.

22. At the election for members of the general assembly in the year of our Lord 1872, and every four years thereafter, there shall be elected a state's attorney in and for each county, in lieu of the state's attorneys now provided by law, whose term of office shall be four years.

COURTS OF COOK COUNTY.

23. The county of Cook shall be one judicial circuit. The circuit of Cook county shall consist of five judges, until their number shall be increased, as herein provided. The present judge of the recorder's court of the city of Chicago, and the present judge of the circuit court of Cook county, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected and until their successors shall be elected and qualified. The superior court of Chicago shall be continued, and called the superior court of Cook county. The general assembly may increase the number of said judges, by adding one to either of said courts for every additional 50,000 inhabitants in said county, over and above a population of 400,000. The terms of office of the judges of said courts hereafter elected, shall be six years.

24. The judge having the shortest unexpired term shall be chief justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be chief justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

25. The judges of the superior and circuit courts, and the state's attorney, in said county, shall receive the same salaries, payable

out of the state treasury, as is or may be paid from said treasury to the circuit judges and state's attorneys of the state, and such further compensation, to be paid by the county of Cook, as is or may be provided by law; such compensation shall not be changed during their continuance in office.

26. The recorder's court of the city of Chicago shall be continued, and shall be called the "criminal court of Cook county." It shall have the jurisdiction of a circuit court, in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county, in criminal and *quasi* criminal cases, shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook county shall be held by one or more of the judges of the circuit or superior court of Cook county, as nearly as may be in alternation, as may be determined by said judges, or provided by law. Said judges shall be *ex officio* judges of said court.

27. The present clerk of the recorder's court of the city of Chicago shall be the clerk of the criminal court of Cook county, during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook county, shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

28. All justices of the peace in the city of Chicago shall be appointed by the governor, by and with the advice and consent of the senate (but only upon the recommendation of a majority of the judges of the circuit, superior and county courts), and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceeding in the circuit or superior court, for extortion or other malfeasance. Existing justices of the peace and

police magistrates may hold their offices until the expiration of their respective terms.

GENERAL PROVISIONS.

29. All judicial officers shall be commissioned by the governor. All laws relating to courts shall be general, and of uniform operation; and the organization, jurisdiction, powers, proceedings and practice of all courts, of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments and decrees of such courts, severally, shall be uniform.

30. The general assembly may, for cause entered on the journals, upon due notice and opportunity of defense, remove from office any judge, upon concurrence of three-fourths of all the members elected, of each house. All other officers in this article mentioned shall be removed from office on prosecution and final conviction for misdemeanor in office.

31. All judges of courts of record, inferior to the supreme court, shall, on or before the first day of June, of each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest; and the judges of the supreme court shall, on or before the first day of January of each year, report in writing to the governor such defects and omissions in the constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the judges of the several circuit courts shall report to the next general assembly the number of days they have held court in the several counties composing their respective circuits, the preceding two years.

32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is or may be provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges, by

the governor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the board of supervisors or board of county commissioners in the county where the vacancy occurs.

33. All process shall run: *In the name of the People of the State of Illinois*; and all prosecutions shall be carried on: *In the name and by the authority of the People of the State of Illinois*; and conclude: *Against the peace and dignity of the same*. "Population," wherever used in this article, shall be determined by the next preceding census of this state, or of the United States.

ARTICLE VII.

SUFFRAGE.

1. Every person having resided in this state one year, in the county 90 days, and in the election district 30 days next preceding any election therein, who was an elector in this state on the first day of April, in the year of our Lord 1848, or obtained a certificate of naturalization before any court of record in this state prior to the first day of January, in the year of our Lord 1870, or who shall be a male citizen of the United States, above the age of 21 years, shall be entitled to vote at such election.

2. All votes shall be by ballot.

3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

4. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States, or of this state, or in the military or naval service of the United States.

5. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

6. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state one year next preceding the election or appointment.

7. The general assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

ARTICLE VIII.

EDUCATION.

1. The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education.

2. All lands, moneys, or other property, donated, granted or received for schools, college, seminary or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

3. Neither the general assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property, ever be made by the state or any such public corporation, to any church, or for any sectarian purpose.

4. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation, and time and manner of election, and term of office, shall be prescribed by law.

ARTICLE IX.

REVENUE.

1. The general assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her

or its property—such value to be ascertained by some person or persons, to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, innkeepers, grocery keepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express interests or business, vendors of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates.

2. The specification of the objects and subjects of taxation shall not deprive the general assembly of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

3. The property of the state, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

4. The general assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments for state, county, municipal or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive state and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

5. The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the general assembly shall provide by law for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments, and when the time of redemption shall

expire: *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.

6. The general assembly shall have no power to release or discharge any county, city, township, town or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

7. All taxes levied for state purposes shall be paid into the state treasury.

8. County authorities shall never assess taxes, the aggregate of which shall exceed 75 cents per \$100 valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

9. The general assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment, or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform in respect to persons and property, within the jurisdiction of the body imposing the same.

10. The general assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property, within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation. The fees, salary or compensation of no municipal officer who is elected or appointed for a definite term of office, shall be increased or diminished during such term.

12. No county, city, township, school district, or other municipal corporation, shall be allowed to become indebted in any manner or

for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness. Any county, city, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall before, or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school district, or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this constitution in pursuance of any law providing therefor.*

ARTICLE X.

COUNTIES.

1. No new county shall be formed or established by the general assembly, which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than 400 square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county, voting on the question, shall vote for the same.

3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county,

*By an amendment to this section, adopted in 1890, the City of Chicago was authorized to issue bonds not exceeding \$5,000,000 in amount in aid of the World's Columbian Exposition, held in Chicago in 1893.

shall be holden for, and obliged to pay its proportion of the indebtedness of the county from which it has been taken.

COUNTY SEATS.

4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years to a vote of the people. But when an attempt is made to remove a county seat to a point nearer to the center of a county, then a majority vote only shall be necessary.

COUNTY GOVERNMENT.

5. The general assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine, and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners, may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization, shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the state.

6. At the first election of county judges under this constitution, there shall be elected in each of the counties in this state, not under

township organization, three officers, who shall be styled "The board of county commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

7. The county affairs of Cook county shall be managed by a board of commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

COUNTY OFFICERS AND THEIR COMPENSATION.

8. In each county there shall be elected the following county officers, at the general election to be held on the Tuesday after the first Monday in November, A. D. 1882: A county judge, county clerk, sheriff, and treasurer; and at the election to be held on the Tuesday after the first Monday in November, A. D. 1884, a coroner and clerk of the circuit court (who may be *ex-officio* recorder of deeds, except in counties having 60,000 and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in 1884). Each of said officers shall enter upon the duties of his office, respectively, on the first Monday of December, after his election, and they shall hold their respective offices for the term of four years, and until their successors are elected and qualified: *Provided*, that no person having once been elected to the office of sheriff, or treasurer, shall be eligible to re-election to said office for four years after the expiration of the term for which he shall have been elected.*

9. The clerks of all the courts of record, the treasurer, sheriff, coroner and recorder of deeds of Cook county, shall receive, as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees,

*This section as amended was proposed by the general assembly, 1879, ratified by a vote of the people Nov. 2, 1880, proclaimed adopted by the governor Nov. 22, 1880.

perquisites and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

10. The county board, except as provided in section 9 of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk hire, stationery, fuel and other expenses, and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected; they shall not allow either of them more per annum than \$1,500, in counties not exceeding 20,000 inhabitants; \$2,000 in counties containing 20,000 and not exceeding 30,000 inhabitants; \$2,500 in counties containing 30,000 and not exceeding 50,000 inhabitants; \$3,000 in counties containing 50,000 and not exceeding 70,000 inhabitants; \$3,500 in counties containing 70,000 and not exceeding 100,000 inhabitants; and \$4,000 in counties containing over 100,000 and not exceeding 250,000 inhabitants; and not more than \$1,000 additional compensation for each additional 100,000 inhabitants: *Provided*, that the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this constitution, and such officers shall receive only such fees as are provided by general law.

12. All laws fixing the fees of state, county and township officers, shall terminate with the terms, respectively, of those who may be in office at the meeting of the first general assembly after the adoption of this constitution; and the general assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered, but the general assembly may, by general law, classify the counties by

population into not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the general assembly of the power to reduce the fees of existing officers.

13. Every person who is elected to any office in this state, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

ARTICLE XI.

CORPORATIONS.

1. No corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state, but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

3. The general assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to accumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

4. No law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the

local authorities having the control of the street or highway proposed to be occupied by such street railroad.

BANKS.

5. No state bank shall hereafter be created, nor shall the state own or be liable for any stock in any corporation or joint stock company or association for banking purposes, now created, or to be hereafter created. No act of the general assembly authorizing or creating corporations or associations with banking powers, whether of issue, deposit or discount, nor amendments thereto, shall go into effect or in any manner be in force unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this state, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be organized under the laws of this state, shall make and publish a full and accurate quarterly statement of its affairs (which shall be certified to, under oath, by one or more of its officers), as may be provided by law.

8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of the state, of all bills or paper credit, designed to circulate as money, and require security, to the full amount thereof, to be deposited with the state treasurer, in the United States or Illinois state stocks, to be rated at ten per cent below their par value; and in case of a depreciation of said stocks to the amount of ten per cent below par, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such

corporations, the amount of stock held by each, at the time of any transfer thereof, and to whom such transfer is made.

RAILROADS.

9. Every railroad corporation organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfer of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall, annually, make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the general assembly shall pass laws enforcing by suitable penalties the provisions of this section.

10. The rolling stock, and all other movable property belonging to any railroad company or corporation in this state, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

11. No railroad corporation shall consolidate its stock, property or franchise with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place, except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated or hereafter to be incorporated by the laws of this state, shall be citizens and residents of this state.

12. Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and shall be free to all persons for the transportation of their persons

and property thereon, under such regulations as may be prescribed by law. And the general assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this state.

13. No railroad corporation shall issue any stock or bonds, except for money, labor or property actually received, and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days' public notice, in such manner as may be provided by law.

14. The exercise of the power, and the right of eminent domain, shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

15. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

ARTICLE XII.

MILITIA.

1. The militia of the state of Illinois shall consist of all able-bodied male persons, resident in the state, between the ages of eighteen and forty-five, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this state.

2. The general assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as

practicable to the regulations for the government of the armies of the United States.

3. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the general assembly may provide.

4. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

5. The military records, banners and relics of the state, shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the general assembly to provide, by law, for the safe keeping of the same.

6. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, such person shall pay an equivalent for such exemption.

ARTICLE XIII.

WAREHOUSES.

1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than 100,000 inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots shall not be mixed with

inferior or superior grades without the consent of the owner or consignee thereof.

3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse in regard to such property.

4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of designation.

5. All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal bank or coal yard, may be reached by the cars on said railroad.

6. It shall be the duty of the general assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the general assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies.

7. The general assembly shall pass laws for the inspection of grain, for the protection of producers, shippers and receivers of grain and produce.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

1. Whenever two-thirds of the members of each house of the general assembly shall, by a vote entered upon the journals thereof,

concur that a convention is necessary to revise, alter or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly shall, at the next session, provide for a convention, to consist of double the number of members of the senate, to be elected in the same manner, at the same places and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the constitution of the United States, and of the state of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration or amendments of the constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alterations or amendments shall take effect.

2. Amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their respective journals; and said amendments shall be submitted to the electors of this state for adoption or rejection, at the next election of members of the general assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this constitution. But the general

assembly shall have no power to propose amendments to more than one article of this constitution at the same session, nor to the same article oftener than once in four years.

SEPARATE SECTIONS.

ILLINOIS CENTRAL RAILROAD.

No contract, obligation or liability whatever, of the Illinois Central Railroad Company, to pay any money into the state treasury, nor any lien of the state upon, or right to tax property of said company in accordance with the provisions of the charter of said company, approved February 10th, in the year of our Lord 1851, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the state debt, shall be appropriated and set apart for the payment of the ordinary expenses of the state government, and for no other purposes whatever.

MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.

No county, city, town, township or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation: *Provided, however,* that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

CANAL.

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the state at a general election, and have been approved by a majority of all the votes polled at such election. The general assembly shall never loan the credit of the state, or make appropriations from the treasury thereof,

in aid of railroads or canals: *Provided*, that any surplus earnings of any canal may be appropriated for its enlargement or extension.

CONVICT LABOR.

Hereafter it shall be unlawful for the commissioners of any penitentiary or other reformatory institution in the state of Illinois, to let by contract to any person or persons, or corporations, the labor of any convict confined within said institution. (This section was submitted to the voters at the election in November, 1886, as an amendment, was adopted, and became a part of this Constitution.)

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this state, and to carry the same into complete effect, it is hereby ordained and declared:

1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this state, individuals, or bodies corporate, shall continue to be as valid as if this constitution had not been adopted.

2. That all fines, taxes, penalties and forfeitures, due and owing to the state of Illinois under the present constitution and laws, shall inure to the use of the people of the state of Illinois, under this constitution.

3. Recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the state of Illinois, to any state or county officer or public body, shall remain binding and valid; and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this state.

4. County courts for the transaction of county business in counties not having adopted township organization, shall continue in existence and exercise their present jurisdiction until the board of county commissioners provided in this constitution is organized in pursuance of an act of the general assembly; and the county courts in all other counties shall have the same power and jurisdiction they now possess until otherwise provided by general law.

5. All existing courts which are not in this constitution speci-

cally enumerated, shall continue in existence and exercise their present jurisdiction until otherwise provided by law.

6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

* * * * *

18. All laws of the state of Illinois, and all official writings, and the executive, legislative and judicial proceedings, shall be conducted, preserved and published in no other than the English language.

19. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

20. The circuit clerks of the different counties having a population over sixty thousand, shall continue to be recorders (*ex-officio*) for their respective counties, under this constitution, until the expiration of their respective terms.

21. The judges of all courts of record in Cook county shall, in lieu of any salary provided for in this constitution, receive the compensation now provided by law until the adjournment of the first session of the general assembly after the adoption of this constitution.

22. The present judge of the circuit court of Cook county shall continue to hold the circuit court of Lake county until otherwise provided by law.

23. When this constitution shall be adopted, and take effect as the supreme law of the state of Illinois, the two-mill tax provided to be annually assessed and collected upon each dollar's worth of taxable property, in addition to all other taxes, as set forth in article fifteen of the now existing constitution, shall cease to be assessed after the year of our Lord one thousand eight hundred and seventy.

24. Nothing contained in this constitution shall be so construed as to deprive the general assembly of power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes, for which the people of said city shall have voted, and to which they shall have given, by such vote, their assent, prior to the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-nine: *Provided*, that no such indebtedness,

so created, shall in any part thereof be paid by the state, or from any state revenue, tax or fund, but the same shall be paid, if at all, by the said city of Quincy alone, and by taxes to be levied upon the taxable property thereof: *And, provided, further*, that the general assembly shall have no power in the premises that it could not exercise under the present constitution of this state.

25. In case this constitution and the articles and sections submitted separately be adopted, the existing constitution shall cease in all its provisions; and in case this constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing constitution (if any) on the same subject shall remain in force.

26. The provisions of this constitution required to be executed prior to the adoption or rejection thereof shall take effect and be in force immediately.

Done in convention at the capitol, in the city of Springfield, on the thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the independence of the United States of America the ninety-fourth.

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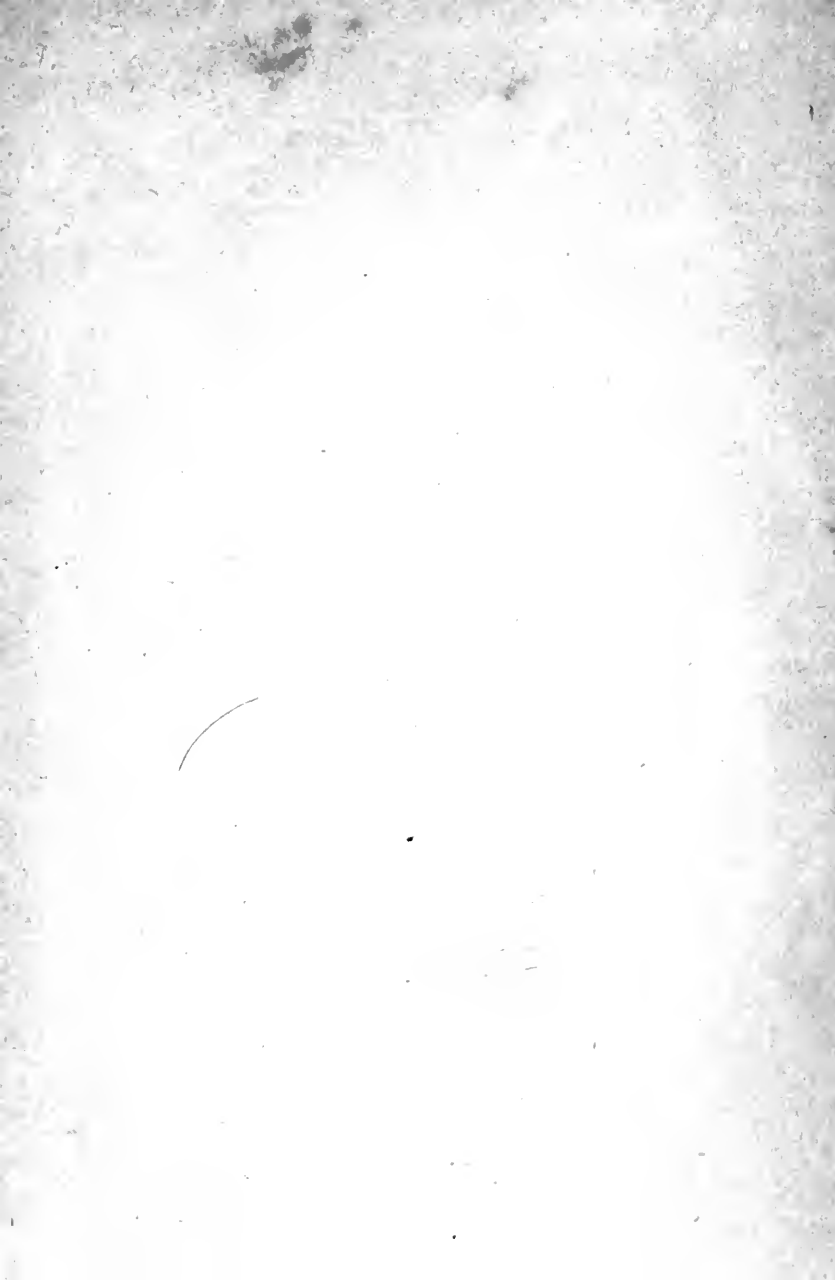
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